



United States  
**CONSUMER PRODUCT SAFETY COMMISSION**  
Washington, D.C. 20207

CPSC/OFFICE OF  
THE SECRETARY

1998 NOV 13 P 1:38

**MEMORANDUM**

**DATE:** NOV 10 1998

**TO :** Commission  
Sadye E. Dunn, Secretary

**FROM :** Jeffrey S. Bromberg *JSB* Ronald L. Medford *RLM*  
General Counsel Asst. Executive Director, EXHR

Leonard H. Goldstein *LHG*  
Attorney, OGC

**SUBJECT :** All-Terrain Vehicles

- Analysis of Public Comments on Federal Register Notice Announcing Actions of ATV Manufacturers/Distributors
- Recommendation for Issuance of Resolution Commending the Actions of Certain ATV Manufacturers/Distributors

**BALLOT VOTE due:** \_\_\_\_\_

**I. BACKGROUND**

The attached notice ("FR notice") was published in the Federal Register on September 9, 1998 (see Tab A). The FR notice summarized the history of the ATV matter and described the actions that members of the ATV industry named in the ATV Consent Decrees (American Honda Motor Co., Inc., Yamaha Motor Corp., U.S.A., Kawasaki Motors Corp., U.S.A., American Suzuki Motor Corp., and Polaris Industries Inc.) and Arctic Cat Inc. (collectively, the "companies") agreed to take now that the Consent Decrees, Arctic Cat's 1996 Agreement and Action Plan, and the companies' dealer monitoring agreements have expired. The FR notice announced a 45-day period (through October 26, 1998) for public comment on a proposed Commission Resolution commending the actions of the companies, except Honda (see Tab B). The letters of undertaking submitted by the Consent Decree defendants, and Arctic Cat's Extended Action Plan, have been on CPSC's web site and available from the Office of the Secretary.

**II. SUMMARY OF PUBLIC COMMENTS AND STAFF RESPONSE**

The Office of the Secretary received 16 comments in response to the FR notice. (See Tab C - the comments have been numbered for ease of reference.) The comments came from:

**NOTE:** This document has not been  
reviewed or accepted by the Commission.  
Initial HL Date 11/10/98

CPSA 6 (b)(7) Cleared

No Mils/Pvt. Data

Products Identified

Excepted *[Signature]*

- ATV rider groups (Comments 1, 2, 3, and 4 - Comment 4 consists of identical separate submissions by 33 members of a single rider group);
- an ATV enthusiast (Comment 5);
- ATV dealers (Comments 6 and 7);
- an ATV training instructor (Comment 8);
- a contributing editor of an ATV enthusiast magazine (Comment 9);
- the National 4-H Council (Comment 10);
- an official of the California State Park System (Comment 11);
- a relative of an ATV accident victim (Comment 12);
- a physician with the Primary Children's Medical Center, Salt Lake City, Utah (Comment 13);
- an injury prevention specialist with the National Children's Center for Rural and Agricultural Health and Safety (Comment 14);
- Public Citizen, Consumer Federation of America and the U.S. Public Interest Research Group in a joint submission (Comment 15); and
- Consumers Union (Comment 16).

#### Summary of Public Comments

The Commission sought comments on whether it should issue its proposed Resolution commending the actions of certain of the companies. Many comments do not address this question. Instead, many have commented on the substance of the actions that the companies have agreed to take and others have suggested that the companies take additional actions. Summarized below are the most significant comments (whether or not they directly address the question of whether the Resolution should issue), and the staff's response.

##### (a) Comments on Age/Engine Size Criteria

The largest number of comments (Comments 1, 2, 3, 4, 6, 8, 9 and 11) relates to the continuation of the Consent Decrees' age of rider/size of engine criteria. Under the criteria, the companies and their dealers (through contractual obligations imposed by the companies) are committed to promote and sell adult-size ATVs (ATVs with engine sizes greater than 90 cc) only for the use of riders age 16 and older (age 18 and older in the case of Arctic Cat) and youth-size ATVs (ATVs with an engine size between 70 cc and 90 cc) only for the use of riders age 12 and older. The commenters opposing the age/engine size criteria argued that the age requirements are unrealistic; they prevent youth from taking training; it is dangerous for a large child to ride a small ATV; state and national organizations are abandoning the age of rider/size of engine criteria; it is not fair that the

burden of enforcing the age criteria is placed on ATV dealers; and because the age/engine size criteria in certain States differ from the companies' age/engine size criteria, it is unlikely that the companies' SVIA training course can be merged with training courses of other organizations thereby taking advantage of a very limited instructor base.<sup>1/</sup> On the other hand, comment 12 was from a parent whose 13-year old was injured in an accident involving a 500 cc ATV that she was allowed to drive during a trip with a friend. The commenter stated that ATV owners should be held liable and punished by law for allowing young riders to ride adult size ATVs.

### Staff Response

A disproportionate number of deaths and injuries occur to children under age 16 who ride the larger, more powerful, ATVs. It is clear from the data that physical size does not equate with the maturity needed to safely drive adult-size ATVs, many of which are capable of exceeding speeds of 50 miles per hour.

The current age criteria had its genesis in CPSC staff's 1986 ATV Task Force Report, which cited injury data showing an increased risk to youth on adult-size ATVs, and the opinions of technical staff and outside consultants on this issue. The staff retained Dr. Herbert Pick, a psychologist with the University of Minnesota's Institute of Child Development, to study the risks to young riders of ATVs. His report ("ATVs and Children: Perceptual-Motor, Cognitive and Social Risk Factors") concluded that "a variety of perceptual-motor, cognitive, and social factors converge to place children up to at least 16 years at risk as operators of ATVs."

The staff's April 1998 report on its 1997 exposure and injury surveys and risk analysis showed that a disproportionate number of injuries continue to occur to young riders. The exposure survey showed that only about 14.3% of ATV riders are children under age 16 (about 96% of these riders drive adult size ATVs), yet the survey of NEISS reported injuries from May 1, 1997 through August 31, 1997 showed that almost 50% of the victims were under age 16 and 95% of these young riders were on ATVs larger than recommended for their age. (Comment 13 reported that, among those ATV accident victims that were hospitalized in Utah, 34% were 16 years of age or younger.) The staff's risk analysis also found:

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<sup>1/</sup> Comment 9 also asserted that one reason there is a higher rate of injury for young riders on adult size ATVs is that many ATVs for young riders are purchased used, such used ATVs may be 3-wheelers, they may have larger engines, and they may lack the more forgiving engine characteristics and safer suspensions of the new models.

- The results of the 1997 risk analysis are generally consistent with the CPSC's earlier 1986 and 1989 ATV risk analyses.... As in the earlier analyses, risk is higher for younger drivers.... (T)he estimated risk for children under age 16 is about 2.5 times higher than for drivers 16 to 34 years of age, and about 4.5 times higher than drivers 35 to 54 years of age -- risk differentials that are somewhat higher than in earlier analyses.
- The risk for a male child on a four-wheel ATV ... rises from about .63% per year on an 80 cc model ... to about 1.14% per year on a 180 cc model, an increase of about 80%.

The most recent ATV death data reported in the staff's final quarterly "Update of All-Terrain Vehicle Deaths and Injuries" (August 11, 1998) similarly implicates adult-size ATV in a disproportionate number of ATV-related deaths to young people. According to that report, 36% of ATV-related deaths since 1982 were to riders under age 16 and 16% of such deaths were to children under age 12.

The commenters imply that if a child under age 16 is going to ride an adult-size ATV, it is better for the child to be trained. (Such riders can now be trained provided they are trained on a youth-size ATV and provided they are age 12 or older.) The staff believes that a change in the age recommendations would undermine the most important safety message available to parents and youthful riders. This message ("ATVs having engine sizes greater than 90 cc should be used only by those age 16 and older.") is based on data that has consistently shown that children are at a significantly higher risk of death or injury if they ride an adult-size ATV. Under the commenters' proposal, many parents who now heed the age warnings may interpret a lowered age recommendation as an indication that it is safe for their children that are younger than age 16 to drive adult-size ATVs. Additional youthful riders could thereby be exposed to a significant risk of death and injury. Even if, under the commenters' proposal, more under age 16 riders are trained, there would appear to be little likelihood that any increase would be substantial. According to the staff's recent exposure survey, only about 11% of ATV riders have taken an organized training course notwithstanding the availability of ATV training programs during the 10 years of the Consent Decrees. Moreover, the fact that a child may be too large to ride a youth-size ATV does not mean that it is safe for the child to ride an adult-size ATV, even if training on the larger ATVs were available.

Certain commenters stated that, because the companies' recommended age for riding an adult-size ATV is higher than the legal requirement in some States, the companies' training programs (which adhere to the companies' age/engine size

criteria) cannot be merged with training programs of other organizations in those States. These commenters thus imply that the age recommendation should be lowered. However, the age requirements differ from State to State. Thus, if any age restriction were selected this conflict would remain. For the reasons stated, the staff does not agree that the age restrictions should be either modified or eliminated.

(b) Comments that the Consent Decrees have Expired and No Further Action Should be Taken

Comments 4, 5 and 7 included assertions that the Consent Decrees have expired, and no further action should be taken. The comments argue that ATV riders need to exercise good judgment to avoid injuries, that the actions to be implemented by the companies will be burdensome, that the CPSC is attempting to halt the growth of the ATV market, and that the companies should be allowed to police themselves. Comment 9 stated that the ATV industry is an industry fully capable of self control, that industry members need to have the freedom to formulate I&E programs directed at the entire ATV market, and that the best contribution that the government can make is to compile raw statistics and monitor the results of the companies' response, thereby allowing the best methods of reducing injuries to be highlighted and emulated, not mandated.

Staff Response

Congress directed the Commission "to protect the public against unreasonable risks of injury associated with consumer products." (15 U.S.C. 2051(b)(1)) The staff's recent exposure survey and analyses of death and injury data confirm that significant numbers of deaths and injuries continue to occur to ATV riders. Of most concern is the fact that a disproportionate number of such deaths and injuries continue to occur to young children. Therefore, the staff has never agreed that the ATV market should escape meaningful Commission oversight. The companies are developing new I&E programs that will help to provide important safety information to the public regarding, among other things, the hazards associated with youth riding adult-size ATVs. The staff will monitor the development and implementation of these programs, as well as the continued implementation of on-going programs, to assure that the companies take all of the actions that have been agreed upon.

(c) Comments that the Commission Should Include Honda in its Commendation / Comments that the Commission Should Not Commend Any of the Companies

Comments 1 and 10 stated, and Comment 5 implied, that Honda should be commended for its post-Consent Decree program. The reasons given include that:

- Honda participates in grass roots involvement with rider groups and provides financial and human resources to assist the safety efforts of such groups, and
- it is incomplete to say that Honda's I&E effort will consist primarily of a nationwide advertising campaign because Honda is providing significant and continuing support of ATV safety education through the National 4-H Council -- support which goes far beyond media campaigns.

Comment 14, complimenting Honda's "Stupid Hurts" advertising campaign, is included in a letter sent to Honda, which Honda in turn submitted to the CPSC as a public comment.

Comments 15 and 16 commented that the Commission should not commend any of the companies. Comment 15 stated that companies should not be commended for doing what they should be doing, and that, instead of issuance of the Resolution, the Commission should provisionally accept the ATV Action Plan. Comment 16 stated that the Commission should reserve commendations for those companies that have taken especially courageous or innovative approaches to saving lives and preventing injuries, and the companies' actions do not fall within that category.<sup>2/</sup>

#### Staff Response

The reasons for the staff's recommendations with regard to commending certain members of the industry and not Honda are set forth in the September 9, 1998 FR notice. The comments present no substantive information not known to the staff at the time of the FR notice and thus do not furnish any basis for the staff to now alter any aspect of its recommendation.

#### (d) Suggestions for Additional Actions

Comments 15 and/or 16 include a number of suggestions for additional actions, including suggestions for:

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<sup>2/</sup> Comment 16 also commented that the Commission, for the most part, has done all that it can do within the limits of its authority and resources to decrease the incidence of ATV deaths and injuries, and that there is no reason to believe that children under 16 will be any better protected from injury and death by the actions of the companies in the future than they have been in the past. The comment suggested that Congress should provide incentives to States to require that all ATVs driven on public lands must be registered, that all ATV drivers must be age 16 or over, that all ATV drivers must take a training course which would be needed to obtain a license, that drivers must wear a helmet, and that drivers be prohibited from carrying a passenger.

- enhanced monitoring by the Commission including monitoring of the I&E and training incentive programs,
- increased monitoring of Honda's program,
- offering of free training and incentives to purchasers of used ATVs,
- a mailing by the companies to all dealers setting out the terms of the Action Plan,
- action by the companies to provide incentives to owners of 3-wheel ATVs to take the ATVs out of use,
- continued in-depth investigations by the Commission of ATV deaths to children to determine whether messages were received and the impact such communications had on children's use.

#### Staff Response

The Commission staff intends to implement most of these suggestions. The staff will closely monitor the actions of the companies, including Honda. There will be periodic information requests to determine the effectiveness of various aspects of the program, including the I&E programs and the enhanced incentives to first time purchasers. In addition, CPSC's undercover monitoring of ATV dealers will approximately double from levels of previous years.

The companies will continue to make training available to purchasers of used ATVs. However, as under the Consent Decrees, such purchasers will incur a "reasonable fee" for such training (approximately \$35). The companies will continue to provide information concerning the importance of taking training in various material available to purchasers of used ATVs, including in owner's manuals, warning labels on the vehicles, and in ATV advertisements.

Upon expiration of the Consent Decrees, and Arctic Cat's Action Plan, the companies sent written notifications to their dealers that the age recommendation requirements would continue, that adult-size ATVs were not to be recommended or sold for the use of riders under age 16 (under age 18 in the case of Arctic Cat ATVs), and that the dealership agreement is subject to termination for violation of this requirement.

The companies that sold 3-wheel ATVs have not agreed to take the action suggested by the above comments with regard to such products. However, none of these products have been sold since early 1988 and the companies have agreed that they will not manufacture such products in the future. Although the exposure survey shows that, as of 1997, more of these products remain in use than was forecast 10 years earlier, the numbers of such products will continue to diminish.

The staff will continue to conduct in-depth investigations of all ATV-related deaths, including those to children, and will continue to compile and evaluate data from various other sources regarding ATV deaths and injuries.

### **III. RECOMMENDATION**

The staff has reviewed the public comments received in response to the FR notice. Where applicable, the staff will consider the comments in the context of on-going reviews of the implementation and results of the companies' programs and in determining what, if any, additional actions involving these products may be appropriate. The staff recommends that the Commission approve the Resolution proposed in the FR Notice of August 27, 1998.

Please indicate your vote:

#### **I. Approve the Resolution.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

#### **II. Do not approve the Resolution.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Attachments



A

**CONTACT PERSON FOR MORE INFORMATION:**

Jean A. Webb, 202-418-5100

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98-24279 Filed 9-4-98; 11:17 am]

BILLING CODE 6351-01-M

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meeting****AGENCY HOLDING THE MEETING:**

Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Wednesday, September 30, 1998.**PLACE:** 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.**STATUS:** Closed.**MATTERS TO BE CONSIDERED:**

Enforcement matters.

**CONTACT PERSON FOR MORE INFORMATION:**

Jean A. Webb, 202-418-5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98-24280 Filed 9-4-98; 1:37 am]

BILLING CODE 6351-01-M

**CONSUMER PRODUCT SAFETY COMMISSION****All-Terrain Vehicles; Comment Request—Proposed Resolution****AGENCY:** Consumer Product Safety Commission.**ACTION:** Notice.

**SUMMARY:** The Consumer Product Safety Commission requests comments on a proposed Commission Resolution ("Resolution") that responds to action plans that certain members of the all-terrain vehicle ("ATV") industry will undertake. The proposed Resolution is attached at the end of this notice. (Unless otherwise noted, the action plans are referred to collectively as the "ATV Action Plan.") (ATVs are three- and four-wheeled motorized vehicles, generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, which are intended for off-road use by an individual rider on various types of non-paved terrain.) The Commission staff has provided extensive input into the development of the ATV Action Plan, which the Commission believes will enhance consumer safety with respect to these products. The Resolution commends certain members of the industry for the ATV Action Plan, and announces that the Commission

will actively monitor sales, promotion and training activities of the ATV industry insofar as those activities pertain to safety, assemble data on deaths and injuries associated with ATVs, and take appropriate action, where necessary, based on the results of such monitoring activity and data.<sup>1</sup> **DATES:** Persons wishing to comment on the Resolution should send written comments to the Office of the Secretary not later than October 26, 1998.

**ADDRESSES:** Written comments should be captioned "ATV Action Plan" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504-0127 or by e-mail at cpssc-os@cpssc.gov.

**FOR FURTHER INFORMATION CONTACT:** For information about the Resolution, call or write Leonard H. Goldstein, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; (301) 504-0980, Ext. 2202.

**SUPPLEMENTARY INFORMATION:****Background**

The Commission's work on ATVs began in the mid-1980s after it learned of a rapidly growing number of deaths and injuries—particularly to children under 16 years old—involving these products. ATV sales had increased dramatically during that time, including more than a tripling of sales between 1980 and 1985. Most of the ATVs produced during that period were three-wheeled vehicles.

The Commission issued an Advance Notice of Proposed Rulemaking ("ANPR") in May 1985 (50 FR 23139). In December 1987, the Department of Justice, at the Commission's request, filed a lawsuit in federal district court under section 12 of the Consumer Product Safety Act against the five major manufacturers and/or distributors of ATVs. *United States v. American Honda Motor Co., et al.*, Civ. No. 87-3525 (D.D.C., filed Dec. 30, 1987). The companies named in the lawsuit were American Honda Motor Co., Inc. ("Honda"), Yamaha Motor Corp., U.S.A. ("Yamaha"), Kawasaki Motors Corp., U.S.A. ("Kawasaki"), U.S. Suzuki Motor Corp. (nka American Suzuki Motor

Corp.) ("Suzuki"), and Polaris Industries L.P. (nka Polaris Industries Inc.) ("Polaris"). The lawsuit sought a declaration by the court that then existing ATVs constituted an "imminent hazard" and requested certain remedial relief. The matter was settled with the court's approval of Final Consent Decrees on April 28, 1988 ("Final Consent Decrees"), and the ANPR was subsequently withdrawn (56 FR 47166). Among other things, the Final Consent Decrees required the companies to:

- Stop the sale of all new three-wheeled ATVs and repurchase them from dealer inventory;
- Promote and sell adult-size ATVs (i.e., ATVs with engine sizes greater than 90 cc) only for the use of riders age 16 and over;
- Promote and sell youth-size ATVs (i.e., ATVs with engine sizes between 70 cc and 90 cc) only for the use of riders age 12 and older;
- Provide free training to all ATV purchasers and members of their immediate families;
- Conduct a nationwide ATV safety public awareness media campaign;
- Adhere to guidelines for advertising and promotional materials;
- Include specified warnings on ATV labeling and in ATV owner's manuals; and
- Accelerate negotiations on a voluntary standard for ATVs. (The voluntary standard for ATVs ("Voluntary Standard"), as approved by the Commission, was published in the Federal Register on January 13, 1989. (54 FR 1407) Among other things, the Voluntary Standard includes configuration requirements for service and parking brakes, mechanical suspension, foot environment, lighting equipment, tire labeling, and various operational controls; there are pitch stability requirements and performance requirements for service and parking brakes; and there are requirements that relate specifically to youth size ATVs, including requirements for limitations on maximum speed capabilities.)

The CPSC staff subsequently negotiated a series of monitoring agreements with the companies to enforce compliance by their dealers with the requirement that adult-size ATVs not be marketed or sold to or for the use of children.

Arctic Cat Inc. ("Arctic Cat"), which started manufacturing ATVs in 1996, voluntarily entered into an Agreement and Action Plan with the Commission in September 1996 ("Arctic Cat Agreement"), whereby the firm agreed to take many of the same actions that were required of the companies under the Final Consent Decrees. Arctic Cat

<sup>1</sup> Chairman Ann Brown and Commissioner Thomas H. Moore approved this notice as here published; Commissioner Mary Shella Gall approved publication of the notice with specified changes that were not adopted. The ballot vote sheets of the individual Commissioners are available to the public through the Office of the Secretary.

also agreed to undertake a dealer monitoring program that was similar to dealer monitoring programs of the other companies.

With the Final Consent Decrees and Arctic Cat Agreement nearing their end, Chairman Ann Brown hosted a "Forum on All-Terrain Vehicles" ("Forum") in May 1997. The purpose of the Forum was to discuss what measures, if any, could reasonably be taken after the Consent Decrees and Arctic Cat Agreement expired to further reduce deaths and injuries associated with these products. Invitations were extended to, and views were obtained from, members of the public, technical experts in the ATV field, members of the private bar, and representatives of consumer groups, rider groups, and State agencies.

The staff engaged in a number of other information gathering activities concerning ATVs during 1997, including the following:

- The staff met with engineers for each company that was a party to one of the Consent Decrees to discuss evolutionary changes with regard to ATVs since 1988 as well as current technology;
- The staff reviewed, subject to confidentiality agreements, pertinent documents from each of the companies, including consumer complaints, documents containing technical information, and information relating to product liability cases;
- The staff met individually with several engineers with experience in testifying on behalf of plaintiffs in ATV cases to solicit their views concerning these products; and
- The staff communicated with certain foreign government agencies concerning any technical and/or legal requirements in those countries concerning ATVs.

The Final Consent Decrees and the Arctic Cat Agreement expired on April 28, 1998. After extensive discussions with Commission staff, each of the companies that was subject to a Final Consent Decree and Arctic Cat Agreement (collectively, the "companies") have agreed to undertake voluntary actions to continue to promote the safe and responsible use of ATVs. The Commission believes that these actions will enhance ATV rider safety.

#### Summary of Findings of Recent Exposure and Injury Surveys and Risk Analysis; and Analysis of ATV Death Reports

As part of its review of the ATV matter and in anticipation of the expiration of the Final Consent Decrees and Arctic Cat Agreement, the

Commission staff recently completed exposure and injury surveys and a risk analysis with regard to these products. The surveys provide a description of current hazard and usage patterns. The staff has compared the results of these surveys to the results of the Commission's 1985 and 1989 ATV exposure and injury surveys, to evaluate trends in use and hazard patterns.

Finally, as in the 1985 and 1989 ATV studies, the characteristics and use patterns of drivers who are involved in injury incidents (as inferred from the injury survey) have been compared against those who are not (as inferred from the exposure survey) to determine the factors associated with risk. The staff's review also included a study of ATV deaths between January 1, 1985 and December 31, 1996. The staff has described the characteristics of drivers and ATVs that have been involved in fatal injuries, and fatality trends since 1985. The staff's full report, titled "All-Terrain Vehicle Exposure, Injury, Death, and Risk Studies," was made public on April 24, 1998, and may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Below is a brief summary of the findings in that report:

#### A. Exposure Survey

- 14% of ATV drivers are children under the age of 16 years (compared with about 23% in 1989);
- Almost two-thirds of drivers are male;
- The mean level of driver experience is 9.6 years (about 4.5% of drivers had less than one year of experience);
- 11% of drivers reported participating in an organized training program; another 12% said they had received some training by ATV dealers or sales people;
- 23% of drivers reported never carrying passengers;
- 35% of drivers reported always wearing a helmet; 32% reported never wearing a helmet;
- 74% of drivers reported some nonrecreational use, including farming or ranching, household chores, and occupational or commercial tasks;
- About 22% of the ATVs are the three-wheel models (this compares with about 54% in 1989);
- 26% of the four-wheel models are four-wheel drive vehicles, most with engines greater than 300 cc;
- 36% of the ATVs were reported to have engines with 300 cc or more (compared with about 10% in 1989); and
- 51% of the ATVs had been purchased as used vehicles; of this number, about 80% had been purchased

from the previous owner, rather than from an ATV dealer.

#### B. Injury Survey

- 47% of the injuries occurring during the study period involved children under the age of 16; this was almost identical to the percentage in 1985 (46%);
- Despite the large proportion of children injured, the number of injuries involving children under age 16 declined approximately 50% from about 42,700 in 1985 to about 21,300 in 1997;
- 95% of injured children were driving ATVs larger than recommended for their age;
- An estimated 54,500 ATV-related injuries were treated in hospital emergency departments during 1997 (this was a decline of approximately 49% from the estimated 106,000 such injuries during 1986);
- The rate of ATV-related injury declined from 5.4 per hundred ATVs in use in 1985 to 2.5 in 1989 and to about 1.5 per hundred ATVs in 1997, an overall rate reduction of about 72%;
- 25% of the injuries were to passengers;
- 75% of the injuries occurred to males;
- 22% of the injuries involved the head; most of the head injuries were concussions or internal organ (i.e., brain) injuries; at least 65% of the persons suffering head injuries were not wearing helmets;
- The largest injury diagnosis categories were contusions and abrasions (27%), and fractures and dislocations (26%);
- 37% of the injuries involved the arm region; 26% involved the leg region;
- 13% of the emergency department injuries were hospital admitted (compared with 4% of all product-related injuries reported to the Commission under the National Electronic Injury Surveillance System ("NEISS"));
- About 4% of drivers involved in injury incidents reported formal ATV training or training by a dealer or sales person.

#### C. Report on ATV Deaths

The CPSC estimates that there have been over 3,200 ATV-related deaths since 1985. Estimated ATV-related deaths declined from about 350 in 1986 to an estimated 269 in 1996. In evaluating the characteristics of drivers and ATVs that have been involved in fatal injuries, the staff has found that:

- Over 35% of the deaths involved children under age 16;
- 87% of the deaths since 1985 were to males;

- 85% of those killed were drivers, 14% passengers (1% were drivers or passengers of other types of vehicles);
- The percentage of three-wheel ATVs involved in deaths declined from 80% in 1985 to less than 20% in 1996; and
- Incidents reported as collisions accounted for 56% of the deaths; overturns were involved in about 28% of all deaths.

#### D. Risk Analysis

The risk analysis showed that although the overall risk of ATV-related injury has declined since the 1980s (as indicated in the injury analysis), the factors associated with risk are consistent with those quantified in the earlier 1985 and 1989 risk analyses and include the same types of warning against behavior previously observed. As in the earlier analyses, risk patterns are related to the characteristics and use patterns of the drivers, and the types of ATVs that they drive. The results suggest that:

- Risk of injury declines with age (the younger the driver the higher the risk);
- Risk for children is about 2.5 times the risk for drivers aged 16 to 34, and about 4.5 times the risk for drivers aged 35 to 54;
- Risk declines with driving experience;
- Risk declines with the percentage of time that ATVs are used in nonrecreational (as opposed to recreational) activities;
- Risk is higher for males than for females (all else equal, risk is about 3 times higher for males than for females); and
- Holding all other factors constant, risk is 2.5 to 3 times higher on three-wheel ATVs than on four-wheel ATVs.

#### The Undertakings of the Companies:

##### A. General Description

The ATV Action Plan is described in letters of undertaking submitted to the Commission staff by Yamaha, Kawasaki, Suzuki and Polaris and in an "Extended Action Plan" submitted by Arctic Cat. In addition, Honda has submitted a letter of undertaking that describes the post-Consent Decree actions that it proposes to take. Copies of these documents may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

In discussing issues regarding ATV safety, the Commission staff has placed special emphasis on measures to address the deaths and injuries to children who drive and ride adult-size ATVs. The staff also has emphasized the need to train inexperienced drivers. The

actions of the companies will include measures that directly address these two areas of concern. Unless otherwise noted, each of the companies voluntarily has agreed that it will:

- Implement an informational/educational ("I&E") effort to communicate safety-related information to consumers.

(There will be two I&E programs, one will be carried out by Honda, the other will be a joint effort of Yamaha, Kawasaki, Suzuki, Polaris and Arctic Cat. Honda's I&E effort will consist primarily of a nationwide advertising campaign that will address specific areas of safety (underage youth riding inappropriately sized ATVs, youths carrying passengers, and use of protective gear) with a message to adults and caregivers that can be conveyed to young riders. Print advertisements will appear in various enthusiast, hunting and outdoors, and farming magazines, and magazines targeting parents of school-age children. Honda estimates that the cost of its program over the next three years will be approximately \$3.5 million. Honda's I&E campaign is more fully described in its letter of undertaking. The I&E campaign of Yamaha, Kawasaki, Suzuki, Polaris and Arctic Cat will be a multi-faceted effort designed to emphasize various safety warnings related to ATVs, especially as they relate to ATV use by children. Among other things, the companies will develop and distribute with each new ATV a CD-ROM program. Materials will also be sent to selected schools and public libraries throughout the nation. The companies will also communicate ATV safety information through paid ads, direct mail, safety posters, teaching aids for school teachers, and websites. The companies estimate that the cost of the program over the next three years will be approximately \$6 million to \$7 million. The I&E campaign of Yamaha, Kawasaki, Suzuki, Polaris and Arctic Cat is more fully described in a August 12, 1998 letter to the Commission from David P. Murray, Esq. A copy of this letter may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.)

- Continue to offer a free hands-on training course (using the same training programs and curricula that have been approved by the Commission) to all purchasers and members of their immediate families;
- (All of the companies except Polaris will continue to offer the existing Specialty Vehicle Institute of America ("SVIA") training program, using curriculum and procedures that have

been approved by the Commission. Polaris' training program will continue to be conducted at the time of sale by a certified instructor at each Polaris dealership, also using Commission approved curriculum and procedures. Polaris' curriculum has been modified to include a required minimum number of repetitions of riding maneuvers for inexperienced riders. The company has also agreed that it will continue to retain the services of an independent firm to conduct monitoring of its dealers to assure that its training program is conducted properly.)

- All companies offering the SVIA training program (except Honda) will offer an increased incentive of \$100 cash or equivalent value per ATV sold to every first time purchaser without prior operating experience where such purchaser or a family member takes training;
- (Yamaha's incentive offer will give the purchaser the option of choosing either \$75 cash or \$50 cash and a \$50 cash rebate on the purchase of a Yamaha ATV helmet. Suzuki will offer a \$100 cash incentive to all first time purchasers and will continue to offer a \$50 cash incentive to purchasers who are not first time purchasers.) (The actions of Honda with regard to the training incentive are discussed below.) In addition, each company, except where noted, will voluntarily continue to:

- Recommend, market, and sell adult size ATVs (i.e., ATVs with engine sizes greater than 90 cc) only for the use of persons age sixteen and older;
- (Arctic Cat has established a minimum age of 16 for Arctic Cat ATVs with engine sizes greater than 90 cc up to 350 cc, and a minimum age of 18 for Arctic Cat ATVs with an engine size greater than 350cc.)
- Recommend, market, and sell youth size ATVs (i.e., ATVs with engine sizes between 70 cc and 90 cc) only for the use of persons age 12 and older;
  - Use best efforts to obtain dealer compliance with the age recommendations, including through undercover monitoring of at least as many randomly selected dealers as was done under previous monitoring agreements with the Commission, and to terminate non-complying dealers in appropriate circumstances;
- (Arctic Cat has agreed to extend for five years its detailed Commission-approved dealer monitoring agreement that expired on April 28, 1998. The other companies, except Honda, have stated that they will continue with the same level of dealer monitoring as under previous monitoring programs and will

use the same procedures. The actions of Honda with regard to dealer monitoring are discussed below.)

- Not market or sell three-wheel ATVs;

- Use existing warning labels that were approved by the Commission on all ATVs;

- Use hang tags that convey the same substantive safety messages as current hang tags;

- Include in owner's manuals the same substantive informational content set forth in the Consent Decrees and Arctic Cat Agreement;

- Assure that future advertising adheres to specified provisions of the advertising guidelines set forth in the Consent Decrees and Arctic Cat Agreement;

- Continue to provide a toll-free hotline for consumers interested in obtaining ATV safety information; and

- Provide to dealers for dissemination to prospective customers the same substantive safety messages contained in the "ATV Safety Alert" set forth in the Consent Decrees and Arctic Cat Agreement.

(The position of Honda with regard to dissemination of the ATV Safety Alert by its dealers is discussed below.)

Each company, except where noted, will also:

- Distribute to all future purchasers an updated ATV safety video that will contain the same substantive safety messages as the current video and will stress the importance of ATV training (the companies will continue to make available to all purchasers the current video until distribution of the updated video begins);

- Participate in efforts to update and revise the Voluntary Standard for ATVs; and

- Give the Commission at least 60 days notice of any material changes in the company's undertakings under the ATV Action Plan (Arctic Cat has agreed to extend its recently expired Action Plan for five more years).

(The position of Honda with regard to the giving of notice to the Commission is discussed below.)

#### B. Honda's ATV Program

Honda's commitments under its ATV program depart from those of the other companies in the following respects:

##### 1. Safety Alert

Honda will not provide to dealers for dissemination to ATV purchasers the "ATV Safety Alert" that was required under the Consent Decrees. The Safety Alert has communicated important ATV safety information to the consumer at

the time of sale, including updated information concerning ATV fatalities. Honda has taken the position that because information in the Safety Alert is duplicative of other warnings being provided to purchasers, continued dissemination of the Safety Alert is not necessary. The Commission staff believes that continued use of the Safety Alert is important because the Safety Alert is the only communication to purchasers that includes data on ATV-related deaths, thereby stressing the importance of following the warnings that are provided. The same information was required under the Consent Decrees in a safety poster in dealer showrooms, but the safety poster has been discontinued.

##### 2. Dealer Monitoring

Honda has stated that representations by sales personnel are not the crucial point in determining underage riding habits, and that the problem is not a lack of awareness, but a failure to follow the age recommendations. Honda has indicated that, under these circumstances, a different use of resources might be more efficient in preventing underage riding.

Honda has indicated that, instead of selecting dealers for undercover monitoring using a statistically valid sampling methodology, its monitoring will be targeted at dealers that it suspects may be violating the age recommendations. The Commission staff does not oppose the targeting of suspect dealers for monitoring; however, the staff contends that a monitoring program in which a sufficient number of dealers are selected for monitoring based on a statistically valid sampling methodology is also necessary in order to measure any increase or decrease in the compliance rate of all Honda ATV dealers. Random monitoring has served in the past to ferret out non-complying dealers so that corrective measures could be taken to assure future compliance with the age recommendations in the promotion and sale of ATVs. Without random monitoring, the staff has no assurance that the monitoring program could not be unfairly manipulated to provide an inaccurate portrait of overall dealer compliance. Random selection of dealers ensures that a company's selection of dealers for monitoring will not come to be dominated by dealers known to comply with the age recommendations.

##### 3. The Training Incentive

Honda has not agreed to offer cash incentives to first time purchasers as a means of encouraging participation in

the training course. The company has indicated that it is aware of no credible evidence or studies suggesting that past cash incentives have been a significant inducement to purchasers and/or their families to take the training course. The company also indicated that it believes that there are other techniques that can be as effective, if not more so, than the current program of cash incentives. Honda's post-Consent Decree training incentive will consist of giving every Honda ATV purchaser who takes training the chance to enter a quarterly drawing for a cash reimbursement of the price of the ATV purchased and an annual drawing for a new car. The total annual value of the prizes to be awarded will be approximately \$40,000. Honda contends that its contest for prizes will be more effective than a cash incentive of \$100 or equivalent value in promoting participation in the training program. The Commission staff contends that the total annual value of prizes offered by Honda is too small, and the chances of winning too remote, for the contest to serve as a meaningful incentive. Honda's contest expenditures will be far less than the amount that would be expended if the company offered an incentive of \$100 cash or equivalent value to first time purchasers of Honda ATVs.

##### 4. Reporting Changes in Honda's ATV Program

Unlike the other distributors, Honda has not agreed to notify the Commission in advance of changes in its ATV program. The Commission staff contends that such notice is essential in order for the Commission to consider whether it should take action with regard to any such changes. Moreover, the staff believes that advance notice, together with the Commission's reservation of all of its enforcement rights with respect to ATVs, will discourage industry from making frequent material changes in the ATV Action Plan.

##### CPSC Monitoring of Companies' Actions

The CPSC staff will closely monitor the continuing actions of the companies. Among other things, the staff will periodically seek information from the companies concerning their current practices with regard to ATV advertisements, actions taken with regard to their informational/educational programs, the effectiveness of their respective training incentives in promoting training by first time purchasers without prior operating experience, and the results of their undercover dealer monitoring programs

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(including information concerning dealer termination actions).

Because many of the actions under the ATV Action Plan, as well as the actions of Honda, will be implemented through each company's dealers, including prohibitions on the promotion and sale of larger ATVs for the use of underage riders at the dealer level, the CPSC staff will greatly enhance its efforts to assure dealer compliance with these actions. At least in the first year that the ATV Action Plan is in place, the staff expects to approximately double the number of undercover dealer inspections that it has conducted in recent years. These inspections will identify dealers that do not comply with the age requirements so that remedial action, including termination of the dealership agreement, where appropriate, can be taken. The staff will also add to its monitoring program a substantial number of general inspections of ATV dealers to determine, among other things, whether required warnings (labels, hang tags) are affixed to each ATV, whether warning information is communicated to each purchaser in safety videos and safety alerts, whether dealer advertisements comply with advertising guidelines specified in the ATV Action Plan, and whether dealers are promoting the taking of ATV training. Where deficiencies are found as a result of any of the above monitoring activities, the CPSC will take appropriate action to assure that the company in question takes appropriate remedial action.

The CPSC staff will monitor, as well as participate in, the process to update the Voluntary Standard. In this regard, the staff has communicated to the companies various issues that should be discussed in the context of a review and updating of the Voluntary Standard, including changes in vehicle equipment and configuration provisions to reflect current production, certain revisions of test requirements, changes to definitional terms, and revisions to reflect current labeling, hang tag, owner's manual and training practices. The updating of the Voluntary Standard will be coordinated by the American National Standards Institute. The procedures of that organization including the opportunity to participate in the process of updating the Standard, will be followed.

#### Request for Comments

The Commission solicits public comments on the proposed Resolution published below. The Resolution would commend Yamaha, Kawasaki, Suzuki, Polaris and Arctic Cat for the ATV Action Plan. A Commission

commendation of these companies would be consistent with the Commission's policy of encouraging companies to voluntarily take action that will help to reduce the risk of injury associated with consumer products. Although the ATV Action Plan does not create enforceable rights that can be exercised by the Commission, the companies have voluntarily made substantial commitments to continue certain actions that were part of the Consent Decrees and Arctic Cat Agreement and to implement additional actions to further promote safe and responsible use of ATVs that will, in the opinion of the Commission, enhance ATV rider safety. The Commission wishes whenever possible to acknowledge companies that voluntarily enhance consumer safety. The Commission believes that, in view of the risks associated with ATV use, the actions described in the ATV Action Plan will continue to be necessary for the foreseeable future. Furthermore, as any new companies enter this market, the Commission will seek the agreement of such companies to take actions that are comparable to the continuing actions of the companies under the ATV Action Plan.

The Commission is pleased that Honda will implement a unique and creative informational and educational campaign that will address specific areas of ATV safety that are of major concern to the Commission, including, most importantly, warnings against the use of adult size ATVs by underage riders. The Commission is also pleased that Honda has agreed to provide adequate funding for its campaign during each of the next three years. Although the Commission welcomes certain of the other actions that Honda will take, the Commission staff, as noted above, is dissatisfied with those parts of the company's program that relate to safety alerts, dealer monitoring, training incentives, and the refusal to notify the Commission at least 60 days in advance of any material changes in its program. For these reasons, the Commission staff cannot recommend to the Commission that its Resolution include a commendation of Honda's ATV program.

The Resolution also announces that the Commission will actively monitor actions taken under the Action Plan and will take appropriate action, where necessary, based on the results of this monitoring activity.

The Commission will consider all comments received in response to this notice before acting on the staff's recommendation that it adopt the

proposed Resolution. In commenting, the public should be aware that the Commission does not have the authority to impose requirements on the use of ATVs (as opposed to requirements relating to the production and sale of ATVs). Many of the States have exercised their authority to impose requirements that relate to the use of ATVs; however, such requirements generally vary from State to State. The Commission believes that, in particular, there needs to be greater attention to the age issue at the State level. The Commission continues to be willing to work with the States in addressing safety issues related to the use of ATVs.

If the Commission adopts the Resolution, it will be available from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207 after October 26, 1998.

Dated: September 2, 1998.

Sadye H. Dunn,  
Secretary, Consumer Product Safety Commission.

#### (Proposed) Resolution of the United States Consumer Product Safety Commission

The United States Consumer Product Safety Commission (the "Commission"), by vote on August 28, 1998, *Resolves that:*

*Whereas*, on April 28, 1988, the United States of America entered into Consent Decrees, filed in U.S. District Court, with American Honda Motor Co., Inc., Yamaha Motor Corp., U.S.A., Kawasaki Motors Corp., U.S.A., U.S. Suzuki Motor Corp. (nka American Suzuki Motor Corp.), and Polaris Industries, L.P. (nka Polaris Industries Inc.), which expired on April 28, 1998 (the "Consent Decrees");

*Whereas*, on September 27, 1996, the Commission entered into an Agreement and Action Plan with Arctic Cat Inc., which expired on April 28, 1998 (the "Arctic Cat Agreement"); and

*Whereas*, the Consent Decrees and Arctic Cat Agreement required the signatory companies to implement various measures designed to enhance consumer safety with respect to all-terrain vehicles ("ATVs"); and

*Whereas*, on April 24, 1998, the Commission released the results and analysis of its 1997 ATV injury and exposure surveys, and those surveys indicate that, among other things, (i) risk of injury is 2.5 times higher when children younger than 16 drive ATVs than for drivers 16 to 34 years of age and 4.5 times higher for such children than for drivers 35 to 54 years of age; and (ii) risk declines with experience, for which

**B**

## **RESOLUTION OF**

### **THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION**

The United States Consumer Product Safety Commission (the "Commission"), by vote on August 28, 1998, RESOLVES THAT:

WHEREAS, on April 28, 1988, the United States of America entered into Consent Decrees, filed in U.S. District Court, with American Honda Motor Co., Inc., Yamaha Motor Corp., U.S.A., Kawasaki Motors Corp., U.S.A., U.S. Suzuki Motor Corp. (nka American Suzuki Motor Corp.), and Polaris Industries, L.P. (nka Polaris Industries Inc.), which expired on April 28, 1998 (the "Consent Decrees");

WHEREAS, on September 27, 1996, the Commission entered into an Agreement and Action Plan with Arctic Cat Inc., which expired on April 28, 1998 (the "Arctic Cat Agreement"); and

WHEREAS, the Consent Decrees and Arctic Cat Agreement required the signatory companies to implement various measures designed to enhance consumer safety with respect to all-terrain vehicles ("ATVs"); and

WHEREAS, on April 24, 1998, the Commission released the results and analysis of its 1997 ATV injury and exposure surveys, and those surveys indicate that, among other things, (i) risk of injury is 2.5 times higher when children younger than 16 drive ATVs than for drivers 16 to 34 years of age and 4.5 times higher for such children than for drivers 35 to 54 years of age; and (ii) risk declines with experience, for which the Commission believes formal training is a partial surrogate; and



WHEREAS, the Commission remains concerned about the current level of deaths and injuries associated with ATVs, especially those involving children younger than 16, and believes enhanced safety efforts may achieve a further reduction in such deaths and injuries; and

WHEREAS, the staff of the Commission and Yamaha Motor Corp., U.S.A., Kawasaki Motors Corp., U.S.A., American Suzuki Motor Corp., Polaris Industries Inc., and Arctic Cat Inc. (collectively, the "Participating Companies") have actively consulted on actions that the companies will voluntarily undertake (the "ATV Action Plan"); and

WHEREAS, the ATV Action Plan is set forth in separate documents that the Participating Companies have submitted to the Commission's staff; and

WHEREAS, a description of the ATV Action Plan, together with a draft copy of this Resolution and other materials, was published in the Federal Register on September 9, 1998, and the public was invited to comment on this Resolution and the Commission has considered such comments in adopting this Resolution; and

WHEREAS, pursuant to the ATV Action Plan, the Participating Companies will (i) promote training, including through enhanced cash incentives to first-time ATV purchasers (or, in the case of Polaris, through requiring that previously untrained purchasers take training in order to receive a warranty on the vehicle), (ii) implement a multi-million dollar, multi-year information and

education safety campaign emphasizing, among other things, the risks created when children younger than 16 operate or ride on adult-sized ATVs, (iii) not market, sell or offer to sell adult-size ATVs to or for use by children younger than 16, (iv) not market or sell three-wheel ATVs, (v) provide safety information on and with ATVs, including giving an ATV Safety Alert to each purchaser, (vi) retain the services of an independent organization to continue the undercover monitoring of the same number of randomly selected dealers as was done under previous monitoring programs (vii) continue or undertake various other safety measures and (viii) notify the Commission at least 60 days in advance of any material changes to the ATV Action Plan (Arctic Cat Inc. has agreed to continue with its actions under the ATV Action Plan for five years); and

WHEREAS, notwithstanding implementation of the ATV Action Plan, the Commission reserves all its statutory enforcement, regulatory and oversight powers with respect to ATVs.

NOW, THEREFORE:

1. The Commission commends the Participating Companies for the ATV Action Plan, which the Commission believes will provide safety benefits to consumers.

2. The Commission will actively monitor the ATV Action Plan by, among other things, increasing the undercover inspections it conducts of dealerships to ensure compliance with age recommendations; increasing its inspections to ensure proper use of labels and hangtags; and collecting and assessing information

regarding the effectiveness of the new training incentives. Other activities are set forth in the Federal Register notice announcing this Resolution. The Commission will take appropriate action based on the results of this monitoring activity. The Commission also will continue to track the death and injury rate associated with ATVs and reserves its authority to take action based on this data.

Dated:

Sadye Dunn,  
Secretary to the Commission

C

Requests For Comments - Federal Register DOCID: fr09se 98-46

All-Terrain Vehicles - Comment Request - Proposed Resolution

Dated September 9<sup>th</sup>, 1998 On Line via GPO Access

**Re: ATV Action Plan**

Adhering to the Consumer Products Safety Commission (CPSC) request for comments before entering a Commission Resolution in the Federal Register on or after October 26<sup>th</sup>, 1998, find below the comments of the Wisconsin ATV Association, Inc. (WATVA). This organization has approximately 35 chapter clubs, 20 associate business members, and 40 dealership members. Our organization represents ATV/OHV issues in this state that has over 125,000 registered ATVs. We work with state, county local, and national land management agencies pertaining to safety issues, environmental concerns, and ethical uses of OHVs. Our association has a proven track record with the responsible citizens concerned with providing a positive future for this OHV recreational activity.

The Wisconsin ATV Association agrees with the majority of actions taken during the 10 year period that the Consent Decree was in place. However, there continues to be a major flaw in the communications to the public that is contradictory to our interpretation of the intent in the original Consent Decree. That is to provide effective safety measures that limits or curtails injuries and deaths of youth on ATVs. We also have a major concern with the wording used in the draft resolution that singles out Honda's approach in a seemingly negative way. Their desire (Honda's) seems similar to ours (WATVA) in that improvements and adjustments need to be made that more effectively address the weak areas of the original recommendations.

On page 10 (also shown as 48204), the draft document reads "*Whereas, the Commission remains concerned about the current level of deaths and injuries associated with ATVs, especially those involving children younger than 16, and believes enhanced safety efforts may achieve a further reduction in such deaths and injuries.*" The contradiction in achieving this "enhancement" of safety efforts remains in the flawed terminology/definition of a YOUTH-SIZED ATV.

The 70-90cc engine sized ATVs, as mandatory equipment on which the under aged 16 youths must take the All-Terrain Safety Institute (ASI) classes, prevents the same targeted youth, in almost every case, from partaking in the very safety class the Decree was meant to provide! In the vast majority of circumstances, this antiquated "engine size/youth age" formula is not credible to the ATV owner/parent, is not believable in common sense thinking to the ATV enthusiast thus invalidating the perceived need for safety training itself. In many situations, conducting the youth class on the supposed proper sized ATV is actually unsafe, in that the youth in need of training is often too LARGE for the improperly termed youth-size ATV.

This is a *major* obstacle to overcome. If we all wish to work toward the *enhancement of safety efforts* to resolve this contradictory dilemma, the WATVA feels your Resolution should reflect such wording in the permanent record of the Federal Register. Indeed, if there is to be any real chance to make the needed adjustments to the worthwhile accomplishments of the Consent Decree, this is the opportune time to make them.

Your text does state on page 10 (48203) that the Commission believes there needs to be greater attention to the "age" issue at the state levels. We concur with that action. As the WATVA has demonstrated in Wisconsin, we have our own safety legislation in place that fits the more realistic "age/fit" of the youth OHV user group. However, because of the precedent the Consent Decree (and now the Resolution) establishes (size of machine/age of child), we will be unlikely to combine the ASI class with our own State Department of Natural Resources (DNR) youth ATV safety class program. This dramatically reduces the

chances of providing more effective class completion numbers for our state youth that ride the ATV units. Please consider a stipulation that allows for a state to determine their own unique needs which will allow us to make use of our talented but very limited instructor base. I would be most willing to explain this in detail with the authors of this document.

This leads us to comment on the Commission's refusal to commend Honda's ATV program. While our statewide organization and our sister organization's across the country have certain relationships and partnerships with all of the original equipment manufacturers (OEMs), Honda has consistently participated in grass roots involvement for the sake of gaining useful information that most certainly includes the reality of motivations to enhance safety training enrollment numbers. I say this from our own experiences, that Honda participate willingly and often in discussion groups and gatherings that provide the most realistic means to formulate successful results and systems to promote proper riding behavior changes and safety management decisions. It appears to us, that because Honda is using a different approach based upon their research methods at a grass roots level, that the Commission is implying Honda is not equally committed to overall safety practices. This is not right.

While we commend all of the different OEMs and the Commission for their commitment to ATV safety issues, specifically our youth, Honda has made known their explanations and logic's based upon the OHV world the WATVA works and recreates in. History has proven to us that Honda understands the ATV marketplace environment, as they live in it with us. To suggest Honda is not providing enough safety alerts (item #1 page 7) that Honda doesn't have a grasp of dealer awareness issues (item #2 page 8), that the training incentive and motivations are improper (item #3) and that Honda has to notify in advance of a topic that is of as much importance (if not more?) than any of the rest of the committee parties, we feel is a mistake on the part of the Commission. Honda continues to provide financial and human resources towards our various grass roots efforts that compliment the other components surrounding the Consent Decree era. We endorse Honda's commitment and different strategies with an intent to further improve the results of responsible training and OHV riding opportunities. As part of the comments requested, the WATVA encourages the Commission to offer the same commendations to Honda, as they are certainly deserving of that recognition.

Without the two adjustments to the Resolution provided in comments by the Wisconsin ATV Association, our comments stand as opposed to this ATV Action Plan Resolution. With the two provisions and adjustments mentioned, we would then certainly go on record as supporting the plan.

Thank you for the opportunity to comment. We look forward to the opportunity of working with your agency to better serve the safety of the youth and adults alike in our chosen recreational pursuit.

On behalf of the Wisconsin ATV Association Board of Directors,

Randy Harden  
President  
WATVA, Inc.  
1020 Superior Avenue  
Sheboygan, WI 53081  
(920) 457-4141

Kansas All Terrain Vehicle Association  
3514 Clinton Parkway Suite A  
Box 314, Lawrence, Ks. 66047

CPSC/OFFICE OF  
THE SECRETARY  
1998 SEP 29 P 2: 19

**RE: "ATV Action Plan"**

Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC. 20207

Dear CPSC,

We, the Kansas All Terrain Vehicle Association (KATVA) would like to respond to your request for "Comments" regarding the "ATV Action Plan".

First, we would like you to know that the KATVA is a Non-Profit ATV Club that has been in existence since March of 1987 (11 years). We are made up of at least 300 members in which 65% of our members are "Family" memberships. The reason that we are mentioning this is that, "**we live the ATV life**". We are the people that are effected by the rules and guidelines that you help create and or enforce.

The KATVA is "**very Safety oriented**" Club that requires members to wear Safety Protective clothing (Helmets, Gloves, Long Pants, Boots etc..). Many of our members have been Safety Instructors for the SVIA and ASI and many more "adult" members have taken the same SVIA or ASI Safety classes. (NOTE: None of the children in the KATVA have been able to take a Safety Course due to current unrealistic CPSC restrictions). In fact one of the KATVA's Motto's is "**Family Fun with Safety Number One**". This all, hopefully will show you our commitment to **ATV Safety**.

**The Problems and Flaws with the current Age Restrictions are as follows.**

#1. The current **Age vs Size** limitations (in regards to Safety Training) actually **prevent children from getting the Safety Training that they so badly need**. In your reports you mention (several times) the concerns with children getting hurt and to quote "Risk declines with driving experience", yet the current age restrictions prohibit a child from taking a safety course before age 6. Then the next age groups (up to and including age 15), would require large and heavy children to take a Safety Course on a machine that they are simply too large for, which actually "**causes unsafe conditions for the child**". Their knees hit the handle bars and throttle, their feet cannot operate the foot brakes properly etc. **This must be changed!**

#2. As mentioned above, "we, the KATVA, live the ATV Life". It's our own children that we watch ride and grow. The current Age vs Size limitations "are NOT realistic". **We believe that the "Common Sense" approach to the machine size is the correct answer.** According to the current standards, nearly every child in the KATVA is in violation of the Age vs Size requirements, yet in 11 years of being a Club we have NOT had one serious injury. Why is this? you ask. The parents in our Club know their children better than anyone. They know what limitations to place on their own children. They work with the children when they are very young and give the children the much needed "driving experience" that your statistics show reduce accidents and injuries. It all sums up to "Common Sense".

Here are some examples of the Age vs Size that the KATVA see's in the "Real World" of ATV use. **NOTE:** These are **not** requirements, guidelines, minimums or maximums. Only what we see in a normal Family that is in our Club or at public riding areas.

**\*Ages 2 to 6.** Most of these children are beginning to ride the smallest available ATV's made. The 50cc Suzuki 4 wheelers are most common due to the nice features that this machine has. There is a cord that is attached to a rear of the machine which is plugged into a engine shut off switch. The parent can walk behind the child and coach the child in proper riding then "if needed" the parent can simply pull this cord and shut the engine off to prevent a run away child and machine or it can also be used to instantly stop the machine "if needed" for any other reason. Also, all the smaller child sized machines have "throttle stop screws" that allows a parent to restrict how much throttle the child is allowed to use. Then as the child grows and gains that much needed experience, the parent can slowly allow more throttle by adjusting the screw. By age 6 "most" of the children are way to large for these sized machines and now have several years of experience and move up to bigger machines.

**\*Ages 7 to 11.** Most of the children in this age group are riding 4 wheeled machines in the 80cc & 90cc range. Honda, Suzuki & Yamaha all make these machines. These machines all feature "throttle stop screws" that allow the parent to restrict the power given to the child. By age 10 or 11, "most" of the children have physically outgrown these machines and must move up to a larger machine.

**\*Ages 12 to 15.** Most of these children are of middle school age and are over 5 foot tall and over 100 lbs. (some are closer to 6 foot and 160lbs). If they were to comply with the past CPSC requirements these children could only ride a "small" 80cc or 90cc machine which is ridiculous and also very unsafe. These "big" kids are so large on these small machines that they can't turn or brake the machines properly. Also taken into consideration is the fact that many children in this age group have been riding ATV's for an average of 10 years already. The majority of kids in this age group are riding 200cc to 250cc sport type 4 wheelers such as Yamaha Blaster 200cc, Suzuki QuadSport 230cc, Honda 250X 250cc etc.

So how do these children get these machines? Most are purchased used because parents are forced into becoming liars if they want to buy a new machine for their child. It only



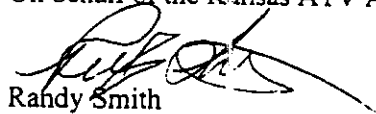
takes one trip to the ATV dealer to find out that you can't buy a "sensible" sized machine for your child without lying because of this foolish Age vs Size restrictions.

**By using the current CPSC requirements and restrictions, NOT ONE OF THESE ABOVE MENTIONED CHILDREN could be given a ASI Safety Course! These Age vs Size limitations are GREATLY FLAWED and need to be removed. The very recommendations that are meant to protect "the children" prohibit these same children from getting proper Safety Training.**

As mentioned before, a "Common Sense" approach is needed. There is No Way that a certain age makes a person (child or adult) qualified to ride a certain machine based on engine size. There are many adults who have no experience riding ATV's and lack the proper skills to operate a ATV "Safely" without proper training and education. You see, **Training, Education, Safety Features and Experience are the answers, NOT age restrictions.**

Thank you for this opportunity to comment on the "ATV Safety Plan".

On behalf of the Kansas ATV Association Board of Directors,



Randy Smith  
Secretary/Treasure  
KATVA

October 26, 1998

Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC 20207

Re: ATV Action Plan

In response to your request for comments on the proposed resolution outlined in Federal Register DOCOD: fr09se 98-46, the position and comments of the All Terrain Vehicle Associations of Minnesota (ATVAM) are discussed below.

In a state with over 90,000 registered ATV's and 43% of fatalities involving riders under 18 years old, ATVAM supports the Commission's concern about the current level of deaths and injuries associated with ATV's and need for enhanced safety efforts to achieve a further reduction in such deaths and injuries. Our concern lies with the continued definition of a youth-sized ATV.

Due to the size of most youths and the limitations of a 90cc engine size ATV, many youths 16 years old or younger are unable to participate in safety classes. Often times, it is unsafe for these larger sized children to ride a 90cc ATV. ATVAM urges the Commission to change the language in the Resolution to reflect a more realistic "age/fit" of the youth to promote enhanced safety efforts. As another viable option, ATVAM would encourage Manufacturers to increase the frame size of the ATV while maintaining the 90cc engine size.

Although ATVAM agrees with the Commission's statement that there needs to be greater attention to the age issue at the State level, we are concerned that the ATV Action Plan will prohibit implementation of a combined DNR / ASI youth ATV safety class program.

Thank you for the opportunity to comment on the proposed Commission Resolution.

On behalf of the All Terrain Vehicle Associations of Minnesota Board of Directors,

Sonia Bartz  
1<sup>st</sup> Vice President  
ATVAM  
P.O. Box 557  
Osseo, MN 55369

6506  
10/27/98

Author: <Quadinator@aol.com> at INTERNET-MAIL

Date: 10/26/98 10:48 PM

Priority: Normal

TO: cpssc-os@ntmail.cpssc.gov at internet-mail

CC: Todd.Craft@Remmele.com at internet-mail, sperson@midstate.tds.net at internet-mail,

Dave\_Kryzer@ATK.COM at internet-mail, SBartz@uhc.com at internet-mail,

Raybohmga@aol.com at internet-mail

BCC: Todd A. Stevenson at CPSC-HQ1

Subject: Comments - "ATV Action Plan"

On behalf of the All Terrain Vehicle Associations of Minnesota Board of Directors, I respectfully submit the attached Word document in response to your request for comments on the "ATV Action Plan".

Sonia Bartz

1st Vice President

ATVAM

PO Box 557

Osseous, MN 55369

**DUN GOOD WILDERNESS RIDERS, INC.**

**A JOINT VENTURE FOR A BETTER TRAIL SYSTEM**

**THE CLUBS OF DUNBAR & GOODMAN**

1998 OCT 21 A 9 32

**Office of the Secretary  
Consumer Product Safety Commission  
Washington, D. C. 20207**

**Dear Director:**

**Recently you published a document regarding the injuries and deaths relating to ATV accidents. Children need to be trained on machines that fit them, not by cc size alone.**

**Wisconsin has over 125,000 registered ATV's along. Many clubs work countless volunteer hours to promote and insure utmost safety for recreational ATV enthusiasts. However, even the safest trails cannot replace common sense and good judgement. Most accidents are due to lack of parental supervision, alcohol and/or drug use, and excessive speed.**

**Your position on the recent document lacks validity and no further action is needed. We take our form of recreation very seriously.**

**Sincerely,**

*Dan R. Derskue*

**ATV & Snowmobile Enthusiast**

Received: from web.cpsc.gov (web.cpsc.gov [127.0.0.1]) by (NTMail 3.03.0014/4c.afbp) with ESMTP id mcohn for <mcohn@cpssc.gov>; Thu, 17 Sep 1998 18:55:34 +0100  
From: "mcohn@cpssc.gov" <mcohn@cpssc.gov>  
To: "mcohn@cpssc.gov" <mcohn@cpssc.gov>  
Subject: Failed mail: unknown user  
Date: Thu, 17 Sep 1998 18:55:34 +0100  
Return-Path: <>  
Message-Id: <22553484300296@cpssc.gov>  
Mime-Version: 1.0  
Content-Type: multipart/mixed; boundary="==\_22553484300297=="

This is a MIME-encapsulated message

--=\_22553484300297=\_  
Content-Type: text/plain; charset="us-ascii"

This mail message has been delivered to the default mailbox.

--=\_22553484300297=\_  
Content-Type: text/plain; charset="us-ascii"

The requested destination was:  
cpcs-os@cpssc.gov

The text of the message follows:

--=\_22553484300297=\_  
Content-Type: message/rfc822  
Content-Disposition: inline

Received: from cybrzn.com (unverified [207.250.166.141]) by vop.cybrzn.com (Vircom SMTPRS 1.0.169) with ESMTP id <B0001889475@vop.cybrzn.com>; Thu, 17 Sep 1998 17:42:29 -0500  
Message-ID: <36018D018617CF2@cybrzn.com>  
Date: Thu, 17 Sep 1998 16:28:17 -0600  
From: Betty Wentland <bwentland@cybrzn.com>  
X-Mailer: Mozilla 4.05 [en] (Win95; I)  
MIME-Version: 1.0  
To: cpcs-os@cpssc.gov, Dave Schultz <smoltz0319@aol.com>  
Subject: 'ATV ACTION PLAN'  
Content-Type: multipart/alternative; boundary="-----8F82B183D92C8556D6545E78"

-----8F82B183D92C8556D6545E78  
Content-Type: text/plain; charset=us-ascii  
Content-Transfer-Encoding: 7bit

Office of the Secretary  
Consumer Products Safety Commission  
Washington, D.C. 20207

The latest document regarding Honda's noncompliance with the safety standards of ATV's is absurd. They do foster education regarding safety for both the riders and the trainers of safety classes. In many cases,

the injury or death of the driver is pure stupidity on the part of that driver or the juveniles parents. When you can re-legislate common sense to be mandatory we will then have safe trails. It does not take legislation or a brain surgeon to keep riders safe. It simply takes good judgement and good parenting, something this entire country lacks. ATV clubs nor property owners should be held liable for any infractions where accidents occur. Recreational enthusiasts need to be held accountable for their own stupidity or lack of good judgement, often mixed with drugs, alcohol, or excessive speed. Please rethink your position on the ATV accidents document.

-----8F82B183D92C8556D6545E78  
Content-Type: text/html; charset=us-ascii  
Content-Transfer-Encoding: 7bit

<HTML>  
<FONT SIZE=+2>Office of the Secretary</FONT>  
<BR><FONT SIZE=+2>Consumer Products Safety Commission</FONT>  
<BR><FONT SIZE=+2>Washington, D.C. 20207</FONT><FONT SIZE=+2></FONT>

<P><FONT SIZE=+2>The latest document regarding Honda's noncompliance with the safety standards of ATV's is absurd. They do foster education regarding safety for both the riders and the trainers of safety classes. In many cases, the injury or death of the driver is pure stupidity on the part of that driver or the juveniles parents. When you can re-legislate common sense to be mandatory we will then have safe trails. It does not take legislation or a brain surgeon to keep riders safe. It simply takes good judgement and good parenting, something this entire country lacks. ATV clubs nor property owners should be held liable for any infractions where accidents occur. Recreational enthusiasts need to be held accountable for their own stupidity or lack of good judgement, often mixed with drugs, alcohol, or excessive speed. Please rethink your position on the ATV accidents document.</FONT></HTML>

-----8F82B183D92C8556D6545E78--

==\_22553484300297== \_-

Author: Scot & Nancy Tway <twayscyc@mindspring.com> at INTERNET-MAIL  
Date: 9/16/98 8:25 PM  
Priority: Normal  
TO: cpsc-os@ntmail.cpsc.gov at internet-mail  
BCC: Todd A. Stevenson at CPSC-HQ1  
Subject: ATV Action Plan

Dear Sirs & Madams:

Being an ATV dealer for over 12 years has given me a knowledge of the original Consent Decree and brought the new proposed 'Action Plan' to my attention. While I have generally agreed with the ideology of the Consent Decree it was majorly flawed, as the Action Plan continues to be, in respect to Youth Models. I wish I had photos of the various 6'2" 240lbs 15 year olds, or of similar demensions, sitting on a Yamaha YFM-80 Badger! It would be dangerous for anyone of that size, regardless of age, to try to attemp to operate such a small ATV. Also, It is VERY OFFENSIVE to most consumers when you tell them what they are allowed to let their children do! As one 'Gentleman' told me in no uncertain Terms " It's non of your's or the governments business what I let my kids do!" And in some respects he was correct.....The burcen of the Consent Decree and now the Action Plan is put on Us Dealer's sholders. It has made our lives and jobs Much mre difficult with respect to Youth Model ATVs. Something needs to happen with respect to the Youth Model definitions or handling of the recommendations and training of young riders. I'm afraid most of yung riders are not being trained because of the "Age Recommendations".

Before any 'Action Plan' is approved this matter should be resolved.

Sincerely Yours,  
Scot M. Tway  
President  
Twin Cities Yamaha

Author: "Bruce Andrey" <andrey@alltel.net> at INTERNET-MAIL  
Date: 10/16/98 1:00 PM  
Priority: Normal  
TO: "CPSC" <cpsc-os@ntmail.cpsc.gov> at internet-mail  
BCC: Todd A. Stevenson at CPSC-HQ1  
Subject: ATV Action Plan

Let the ATV market flourish. Your ten-year plan had to have been a success. Injuries are down dramatically and sales of new units are at an all-time high. Continue with age recommendations and allow the OEMs to police themselves. Save us taxpayers some tax dollars. The ATV economy is very healthy and the demise of the Consent Decree will not see a return to the dark ages.

Implementing the proposed ATV Action Plan will be burdensome on the OEMs and can only contribute to higher prices and the continued misconception by many that ATVs are dangerous, killer machines.

Step aside CPSC, go find some other consumer product to pick on, like maybe bicycles, those things are really dangerous.

Sincerely,

W. Bruce Andrey  
Vice President  
Professional Cycle, Inc.



Author: "Bruce Andrey" <andrey@alltel.net> at INTERNET-MAIL  
Date: 10/16/98 6:00 PM  
Priority: Normal  
TO: "CPSC" <cpsc-os@ntmail.cpsc.gov> at internet-mail  
BCC: Todd A. Stevenson at CPSC-HQ1  
Subject: ATV Action Plan

Sirs,

I have just read the details of your proposed "ATV Action Plan" and it looks like you are attempting to continue to halt the growth of the ATV segment of the national motorsport retail community. As a large motorcycle and ATV service, parts and accessories dealer in the northeast, we rely on ATVs for much of our revenue. We employ six full-time personnel year-round. We also contribute significantly to the local area's economy via our grass-roots promotional, sales, and marketing plans on a seasonal basis.

The Consent Decree has expired. I'm sure the CPSC has seen the #'s of ATV related injuries fall drastically while sales of new ATVs have increased dramatically. I think your educational programs have succeeded with a lot of help from the OEMs. The word is out. Let people purchase the machines they desire and stop trying to legislate safety.

I would like to see continued labeling of the machines as to age recommendations and OEM dealers should continue to stress the importance of choosing the proper size ATV for the intended operator. The importance of wearing the proper safety equipment and being a responsible operator is a very important part of our business as I'm sure it is with the OEM dealers. As you know, we profit from protective gear sales!

Save the taxpayers some money and allow the OEMs to police their own ranks. The CPSC should consider their job finished with ATV's, and allow the market to flourish and not stagnate or decline as it may if the Action Plan is implemented.

Sincerley,  
W. Bruce Andrey

Author: "tbraun+pitt.edu" <tbraun+pitt.edu> at INTERNET-MAIL  
 Date: 9/18/98 7:21 AM  
 Priority: Normal  
 TO: "'cpsc-os@cpsc.gov'" <cpsc-os@ntmail.cpsc.gov> at internet-mail,  
 "'Office of the Secretary'" <cpsc-os@ntmail.cpsc.gov> at internet-mail  
 CC: Randy.Harden[rharden@ohvcc.org] at internet-mail  
 BCC: Todd A. Stevenson at CPSC-HQ1  
 Subject: ATV Action Plan

Requests For Comments - Federal Register DOCID: fr09se 98-46

All-Terrain Vehicles - Comment Request - Proposed Resolution

Dated September 18th, 1998 On Line via GPO Access

Re: ATV Action Plan

Adhering to the Consumer Products Safety Commission (CPSC) request for comments before entering a Commission Resolution in the Federal Register on or after October 26th, 1998, I state my comments as a father of four children (ages 11 to 17 years); an Assistant Professor of health and physical education (entering my 19th year); owner of six (6) adult-size ATVs; and a certified ASI Safety Instructor (April 1997).

Since becoming an ATV Safety Instructor, 16 months ago, I have established four training sites in this region to include the Allegheny National Forest, the City of Titusville, the township of Cranberry, and a private business enterprise. I have conducted 35 ATV safety classes and taught 175 students.

I agree with the majority of actions taken during the 10 year period that the Consent Decree was in place. However, there continues to be a major flaw in the communications to the public that is contradictory to my interpretation of the intent in the original Consent Decree. That is to provide effective safety measures that limits or curtails injuries and deaths of youth on ATVs.

On page 10 (also shown as 48204), the draft document reads "Whereas, the Commission remains concerned about the current level of deaths and injuries associated with ATVs, especially those involving children younger than 16, and believes enhanced safety efforts may achieve a further reduction in such deaths and injuries." The contradiction in achieving this "enhancement" of safety efforts remains in the flawed terminology/definition of a YOUTH-SIZED ATV.

The 70-90cc engine sized ATVs, as mandatory equipment on which the under aged 16 youths must take the All-Terrain Safety Institute (ASI) classes, prevents the same targeted youth, in almost every case, from partaking in the very safety class the Decree was meant to provide. In the vast majority of circumstances, this antiquated "engine size/youth age" formula is not credible to the ATV owner/parent, is not believable in common sense thinking to the ATV enthusiast thus invalidating the perceived need for safety training itself. In many situations, conducting the youth class on the supposed proper sized ATV is actually unsafe, in that the youth in need of training is often too large for the improperly termed youth-size ATV.

Out of the 175 students that have attended my classes, only one (1) was a youth. Countless times parents have expressed their desire to have their

child participate with them in the ASI RiderCourse. Numerous times adults have chosen not to attend but indicated they would bring their child if the opportunity was made available.

We are witnessing state and national organizations abandoning your youth-size recommendations. They are in-line with what is fact and taking the positive measures to address this issue by choosing to make available an educational opportunity for their youth that is realistic. I am experiencing the constraints associated with the CPSC's position on the youth-size recommendation and the ASI's standards.

This is a major obstacle to overcome. If we all wish to work toward the enhancement of safety efforts to resolve this contradictory dilemma, I feel your Resolution should reflect such wording in the permanent record of the Federal Register. Indeed, if there is to be any real chance to make the needed adjustments to the worthwhile accomplishments of the Consent Decree, this is the opportune time to make them.

I stand as opposed to this "ATV Action Plan Resolution" as it is now written.

Thank you for the opportunity to comment.

Timothy J. Braun  
ASI Instructor #96814  
12139 Spring Creek Rd.  
Titusville, PA. 16354  
(814) 827-1048

Author: "demeyer.telis" <demeyer@mail.telis.org> at INTERNET-MAIL  
 Date: 10/23/98 12:47 PM  
 Priority: Normal  
 TO: "Carey Bohn" <Carey@mail.epginc.com> at internet-mail,  
 "Randy Harden" <rharden@nohvcc.org> at internet-mail,  
 "Glenn Hansen" <GLENN@mail.epginc.com> at internet-mail,  
 "Ron Nordyke" <rnordyke@iswest.com> at internet-mail,  
 "Office of Secretary" <cpsc-os@ntmail.cpsc.gov> at internet-mail,  
 "Pete terHorst" <ptetehorst@amerhonda.com> at internet-mail,  
 "Wade Sherman" <wshe@outdoorchannel.com> at internet-mail  
 BCC: Todd A. Stevenson at CPSC-HQ1  
 Subject: comment on CPSC proposed ATV Action Plan

Requests for Comments - Federal Register DOCID: fr09se 98-46  
 All-Terrain Vehicles - Comments request - Proposed Resolution  
 Dated 23 October 1998 C1 Line via GPO Access  
 Re: ATV Action Plan

As per the Consumer Products Safety Commission's (CPSC) request for comments on or before October 26, 1998 regarding the Commission Resolution in the Federal Register, see the following.

I would like to address several important issues of concern in the proposed resolution. First, the statistics showing ATV injuries, although down an astounding 72 from pre-consent decree days, don't reflect the fact that a large percentage of the injuries recorded result from existing older ATVs and ATVs being sold to new owners through the used marketplace. This statistical skew is used to exacerbate the perceived problem of under 16-year-old riders and over 90cc ATVs, when in fact the very age-size requirements may be caused by a lack of information and education (I&E) due to this supposed problem, creating a situation causing the law to be skewed.

Perhaps the most important error in the proposed resolution though, is the lack of freedom given to manufacturers in an attempt to inform and educate the entire ATV market. Based on the fact that our country has flourished under the free enterprise system, where ideas can blossom and bear fruit if of value, we should do more than allow for differences in approach to the (I&E)? we should promote it.

The CPSC states that, although it has no power to regulate the use of ATVs, it is nonetheless concerned with the safe use of ATVs, especially by children under the age of 16. The CPSC also states that its own statistics show that, although less than 20% of all ATV riders are under the age of 16 years, these riders account for almost 50% of all injuries sustained. Another related CPSC statistic states that the vast majority (95%) of under 16-year-old injuries are caused by those riders operating an ATV not considered age-appropriate by the CPSC. Another CPSC statistic says that one of the factors that can cause a decline in the injury rate is experience while one final statistic says that the overall injury rate has dropped by %.

Just what can be gleaned from these statistics as far as our concerns about the safety of those riders under 16 years of age? Beyond the fact that these riders make up a vastly disproportionate number of the injuries, the conclusions are not as simple as the fact that they are riding ATVs too large for their age. Other factor may very well be a part of this injury equation. One factor, certainly a part of this possible statistical skew, is the unaccounted for impact by the vast numbers of existing ATVs already in the market.

A multifold problem enters when trying to include the used ATV market. Used ATVs are typically purchased by the lower income groups. Being relegated to the less expensive ATVs available on the used market often means they are left to ride older

models, which are most often the least safe ATVs?3-wheelers. Most of these 3-wheelers are not only of a larger engine size, but also lack the more forgiving engine characteristics and safer suspensions of the new models. They often are in much less than ideal mechanical condition as well. Now add to that the fact that they are acquired without proper (I&E) and perhaps even supervision, while entering the ATV market through the used ATV 'back door,' and you have now combined a volatile mix surely to create injury by ignorance.

We mustn't be misled by the statistics to believe that all injuries are a result of new ATV purchases, thereby continually adjusting and changing the already work-gone end of an equation. The used market has no age requirements, size requirements or training available. Don't overweigh the new ATV market with guidelines and procedures that have no effect on the used ATV market. While new purchasers not only have all the safety information available, they also most likely have the much more important ingredient?an adult role model to oversee their ATV use.

Many of the under 16-year-old riders purchasing new ATVs may actually have the proper training and experience that would allow them to be safer on an ATV that fits them more correctly. It is often the case that an under 16-year-old rider is not only adult-sized, but also has several years of proper rider training and experience yet, by law, is not able to ride a safer (remember that only the adult-sized ATVs have the good, long-travel suspension systems) machine without skirting the law. So, age suggestions should be only that?dealer suggestions regarding the age, as well as the size of the youth, and therefore the proper size of the ATV.

The proper fit of an ATV to a rider should be based on that particular rider's ability, training, and experience; then sized to that rider based on their ability to comfortably reach and operate all the controls. It should be obvious that there is no more danger in a rider not being able to operate the controls because of lack of reach than it is for one attempting to operate the very same controls from a cramped position.

While it is indisputable that a valid knowledge of the correct use of an ATV, as well as the dangers involved in its use, should help to create a safer ATV marketplace, the methods to inform and educate should be as many and as varied in ideas as the riders themselves. Safety packets and rider-safety classes reach only a small portion of the total ATV market?the new ATV buyers. Many new buyers are selling their ATVs in the private marketplace.

A proper advertising campaign or manufacturer-supported safety campaign through community programs and local schools may have a far more significant impact on the ATV market as a whole. Because of the discrepancies in getting the safety issue out to all ATV riders, in both the new and used markets, it is all the more important to allow for variances in how manufacturers see and deal with the perceived problem of educating the young and new ATV riders.

Perhaps the best contribution the government can make is to compile the raw statistical data and then monitor the results of the manufacturer's responses, thereby allowing the best methods to be highlighted and emulated?not mandated. Because of this, there is no reason for this proposed ATV Action Plan to become a Commission resolution. It provides no more protection for our children than the manufacturer already propose to implement. This proposal is merely a continuation of unnecessary governmental interference in an industry fully capable of self control.

Thank you for the opportunity to comment on the proposal.

DE Meyer

Contributing Editor  
ATV Magazine  
ATV Sport Magazine

Sand Sports Magazine

DE Meyer & Assocs.

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CPSC/OFFICE OF  
THE SECRETARY

Richard J. Sauer  
President  
Chief Executive Officer

7100 Connecticut Avenue, Chevy Chase, Maryland 20815  
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1998 OCT 27 A 10:30

October 23, 1998

"ATV Action Plan"  
Office of the Secretary  
U.S. Consumer Product Safety Commission  
Washington, D.C. 20207

TO: Commissioners Ann Brown, Mary Sheila Gall and Thomas H. Moore  
U.S. Consumer Product Safety Commission

FROM: Richard J. Sauer, Ph.D.  
President and CEO  
National 4-H Council

National 4-H Council recommends that Honda be commended for its continuing commitment to underwrite a nationwide volunteer-led experiential ATV safety education program for youth.

It is incomplete to state that "Honda's I&E effort will consist primarily of a nationwide advertising campaign." The approach Honda took nine years ago in building a partnership with National 4-H Council and the U.S. CPSC to engage communities - youth and adults as partners - will continue. The media campaign and the 4-H hands-on efforts with volunteers nationwide are complementary and add strength to education and outreach efforts which cannot be achieved by merely mailing materials to schools and libraries. The decision by Honda to invest in ATV safety initiatives which involve youth directly as partners in promoting safe behaviors of their peers and younger children should be commended in the CPSC resolution. This strategy will result in much more effective safety education efforts than simply continuing training incentives to adults. Youth safety is the issue.

The 4-H Community ATV Safety Program initiated in 1989 continues. Supported by American Honda Motor Company, Inc., National 4-H Council and its partners in state and county Cooperative Extension System offices nationwide will offer school-based and non-formal education programs, engage youth as partners in conducting ATV safety education and awareness initiatives, and provide training for volunteers to expand the number of people who are qualified to carry this important message and conduct training in their communities. In addition, comprehensive evaluation research strategies will continue to be applied so that we can offer information on the effectiveness of our combined efforts and continually improve the program and supporting materials.

*To be an uncommon youth development organization fostering  
innovation and shared learning for youth workers and young leaders.*

The "ATV Action Plan" as presented in the Federal Register of September 9, 1998 neglected to acknowledge the significant ATV safety education accomplished through the partnership of the U.S. Consumer Product Safety Commission, National 4-H Council and American Honda Motor Company, Inc.. Since 1990, this combined effort has reached millions of youth with learning experiences which promote behavior change on the ATV risk factors documented by CPSC epidemiological research. This program also promotes the development of broad partnerships at the state and local community levels. Partners include: state health departments, youth, public land management agencies, and other health and education professionals. Evaluation research, including interventions with adults responsible for youth access to all-terrain vehicles, has consistently documented statistically significant positive behavior change on all of the key risk factors of concern to the CPSC.

Based on experiences resulting from the work of the National 4-H Council/CPSC/American Honda partnership for ATV safety during the past nine years, I believe that our future efforts will prove more expansive and more effective in keeping youth who choose to ride all-terrain vehicles safe. Again, National 4-H Council urges the Commission to commend Honda on its significant and continuing support of ATV safety education -- support which goes far beyond media campaigns.



**OFF-HIGHWAY MOTOR VEHICLE RECREATION**



A Division of California Dept. of Parks and Recreation

October 26, 1998

Chairman Ann Brown  
Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC 20207

Dear Chairman Brown:

**Subject: ATV ACTION PLAN**

As Deputy Director for the Off-Highway Motor Vehicle Recreation Division of the California State Park System, I am responsible for managing California's Green Sticker Program. This is a very ambitious program that has an annual budget of \$31,000,000 and is totally funded through off-road registrations and that portion of the gas tax that is consumed during off-road use. The Green Sticker program provides off-road recreation at over 100 sites throughout the state of California. Over 5 million people use these recreation areas every year.

We are all aware that the number of children injured and killed in ATV accidents in the 1980's was unacceptable. We applaud the work that the Consumer Product Safety Commission did to resolve the problem. In addition to the consent decree, California adopted several laws in 1988 that pertain to ATVs. In summary, California law states that:

- Anyone that operates an ATV must wear a helmet.
- Anyone under the age of 18 that operates an ATV must have attended safety training.
- It is illegal to carry passengers on an ATV.
- A parent or guardian must supervise anyone under the age of 14.

The combination of these laws and the training provided by the manufacturers has been very successful in California. The injury rate for all ATV enthusiasts is very low.

We keep accurate statistics on the accidents that occur in the 6 State Vehicular Recreation Areas (SVRA's). My staff is unaware of any fatalities and very few serious injuries that involved children operating ATVs in the last 5 years.

I have surveyed the Ranger staff at all of the SVRA's in California and not one of my staff believe that children operating adult sized ATVs is a problem or has contributed to any accidents.



CALIFORNIA STATE PARKS

10/20/80 10:11:00 FAX 8 0 024 1010

Chairman Ann Brown

Page Two

Actually, we have found the opposite is true. We have developed a training program with our local Police Athletic Leagues that train at-risk youth how to ride ATV's and motorcycles. Many of these "at-risk" kids are 6 feet tall and weigh up to 200 pounds. There is no way that we can safely put them on a youth sized ATV.

The federal government should not mandate what size of ATV that children should ride. This is an issue for the parents of the child and the instructor of the safety class to determine the proper fit. One size does not fit all children.

The federal government does not mandate:

What size motorcycles children should ride.

What size skis children should wear.

What size soccer shoes children should wear.

The parents or guardians normally make these decisions.

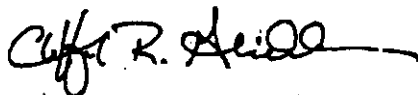
Our data indicates that the majority of the fatality and injury accidents that occurred in the 1980's involved the 3 wheeled ATV's. Since that time, the number of 3 wheelers has decreased significantly and the number of injuries and fatalities has dropped similarly. The consent decree solved that problem.

The CPSC did a good job of solving a problem that existed 10 years ago. That does not mean that the same problems exist today, or does it take into account that many states have adopted their own laws and regulations.

I would also like to address the issue of the safety training. It would have been nice if Honda had agreed to make the same offer as the other companies to encourage people to take the safety training. However, the important issue to remember is that all of the companies are willing to provide an excellent training session for free. Whether the companies give away a \$50 bonus or a \$100 bonus is a secondary issue.

I cannot support the ATV action plan as long as it contains the existing language for age and size limitations, as I do not believe that they are realistic nor effective.

Sincerely,



Clifford R. Glidden  
Deputy Director

STATE OF CALIFORNIA

Department of Parks & Recreation

FAX TRANSMITTAL

Off-Highway Motor  
Vehicle Recreation Division  
Post Office Box 942896  
Sacramento, CA 94296-0001



(916) 324-4442 Fax: (916) 324-1610

TO: Chairman Ann Brown

FAX #:

DATE: 10-26-98 TIME: 3:50

FROM: Clifford G. Holden

Original ☐ will ☐ will not follow

Page 1 of 3

COMMENTS:



CALIFORNIA STATE PARKS

Author: <Nrsnichole@aol.com> at INTERNET-MAIL  
Date: 10/16/98 6:19 PM  
Priority: Normal  
TO: cpsc-os@cpsc.gov at internet-mail  
BCC: Todd A. Stevenson at CPSC-HQ1  
Subject: atv resolution

Hello, I am just a concerned parent whose 13 year old daughter was seriously injured on an ATV. Despite stricter controls over the sale and use of these machines, children are still riding them and getting hurt and or dying. There has to be stricter penalties to the owners of these machines who allow minors to ride them. In our case, a former Polaris worker purchased the machine for the owners on discount. The owners never recieved the training provided but did recieve an owners manual ( which they claim they never read) and the atv had warning stickers on it ( which they claim they never saw. Furthermore, they said in their deposition that they will continue to ride atvs like they used to including letting minors drive and allowing passengers to ride. What can the CPSC do about that? It's really the owners buying these things that are allowing all of these accidents to happen. Awareness has to be a continuing process. I feel stricter criminal penalties towards parents or owners of atvs should be dealt out when it comes to children riding atvs.

Author: Todd A. Stevenson at CPSC-HQ1  
Date: 11/2/98 8:32 AM  
Priority: Normal  
TO: Leonard H. Goldstein, Martha A. Kosh  
Subject: ATV Action Plan

Hello to whom it may concern, this is my second e-mail because I don't think you recieved the first one. If you did then I apologize. I will state my opinion again just in case the first message was not recieved. I am a parent of a 13 year old daughter who was seriously injured on an ATV last year. While my daughter was up north on a trip with a friend she was allowed to ride a 500cc ATV. I know that this accident could have been avoided if there were only more stricter guidelines or should I say stricter punishments for ATV owners to follow. In this case however, a Polaris employee had purchased this ATV using his discount for the sole reason of selling it to a friend. Polaris has good safety precautions by giving hands on training at the dealership at the time of a purchase. But in this case, training was not provided for the new owners. He had done this on numerous occasions. The owners are at fault too and I find this very distressing at which they could be so nonchalant about safety. They were provided the owners manual which contained all of the warnings but they didn't bother to read them. Children were allowed to ride this machine all weekend and were not even provided a helmet! I think that owners of ATVs should be held liable and punished by law when something like this happens. Why aren't there laws concerning ATV age requirements? You can't drive a car until you're 16. There should be a law for these machines also. These machines are more dangerous than a car. Needless to say, I have done alot of research on ATVs and I think the answer lies with your agency. If there is anything I can do to help, please let me know. Thank you,

<A HREF="http://www.aaos.org/wordhtml/papers/position/atvs.htm">Nichole</A>

### **Three- and Four-Wheel ATV Injuries in Utah, 1992-1996**

- Nearly \$4.3 million have been spent on hospital charges for ATV injuries in Utah
- Between 1992 and 1996 there were 543 hospitalizations for ATV injuries in the state of Utah
- 34% (183) of the 543 hospitalized people were 16 years of age or younger
  - Over \$1.2 million were spent on hospital charges for these younger participants
- There were 5 deaths in hospitalized patients
  - 20% (1) of fatalities were 16 or younger
- Most frequently injured organ system was musculoskeletal, followed by central nervous system
- Average length of stay was 3.9 days
- Most patients were discharged home, but
  - 7.6% (41) were discharged with specialized care

This is a sketch of the Utah statistics. We are continuing to analyze the data and have recently received the data for 1997 hospitalizations and ED visits in Utah as well. Please contact me with suggestions or questions at any time.

Natalie Z. Cvijanovich, M.D.  
Fellow, Pediatric Critical Care  
Primary Children's Medical Center  
Intermountain Injury Control Research Center  
Salt Lake City, Utah  
[Natalie.cvijanovich@hmc.utah.edu](mailto:Natalie.cvijanovich@hmc.utah.edu)  
(801)581-6410



# Facsimile Transmittal

Date: 10/26/98

To: Office of the Secretary

Of: Consumer Product Safety Commission

Fax Number: (301) 504-~~0000~~ 0127

Cover Page Plus 1 Pages to Follow

From: Natalie Crijanowski

Our Fax Number is: (801) 581-8686

Comments: ATV Action Plan

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\_\_\_\_\_

Please call us if there is a problem with any of the material received

*Thank You!*

## Confidentiality Note

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National Farm Medicine Center  
1000 North Oak Avenue  
Marshfield, WI 54449-5790

1-5389-4999  
1-888-924-7233  
Fax 1-5389-4996

Comment 14



**National Children's Center**  
for Rural and Agricultural Health and Safety

September 4, 1998

Chief Executive Officer  
American Honda Motor Co., Inc.  
4475 River Green Pkwy  
Duluth, GA 30096

### Stupid Hurts Campaign

I would like to compliment American Honda on their *Stupid Hurts* campaign. I was pleased to see the full-page ads in *ATV Magazine* and the *Progressive Farmer*. I specialize in injury prevention to children from recreational activities. I am very interested in programs that are designed to reduce injuries to children.

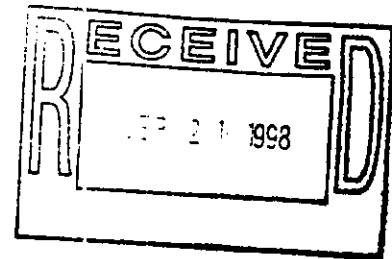
The National Children's Center strives to enhance the health and safety of all children exposed to rural and agricultural hazards in the United States. The Center provides guidance for childhood agricultural injury prevention programs in both private and public sectors. In addition, the Center guides and supports efforts of major organizations in identifying potential interventions to protect children from rural and agricultural hazards.

In 1997, an estimated 11,900 youth under the age of 16 were treated in hospital emergency departments for injuries associated with ATVs. We need to continue our efforts to reduce ATV-related injuries to children.

Efforts such as Honda's *Stupid Hurts* campaign helps to educate the public on the potential hazards associated with the inappropriate operation of ATVs. Please let me know if my colleagues and I can provide support or guidance as you continue this important work. Thank you for your efforts towards the reduction of injuries to children.

Sincerely,

Steve Schaefer, MS, RD  
Rural Youth Safety Specialist  
[schaefer@mfdclin.edu](mailto:schaefer@mfdclin.edu)







National Children's Center  
for Rural and Agricultural Health and Safety

August 1998

## Media Alert: ATV Safety & Youth

In 1997, an estimated 17,900 youth younger than 16 years were treated in hospital emergency departments for injuries associated with all-terrain vehicles (ATV). Injuries occur when adult-sized ATVs are operated by youth younger than 16 years, operators are not wearing personal protective equipment, and three-wheeled ATVs are being used.

It is crucial that the media contribute positively to ATV safety to assist in the reduction of injuries. A photo can speak a thousand words. All of your safety messages can be negated by one photo that unintentionally gives the wrong message to youth. Convey only safe activities.

The following recommendations give editors, illustrators, cinematographers, and photographers a list of guidelines to communicate ATV safety. This list is not inclusive of all safe ATV depictions.

### Guidelines for "Safe" Communication about ATVs

#### ***Do...portray ATV operators in proper clothing and protective equipment.***

In 1997, head injuries accounted for 20% of all individual ATV-related injuries with 65% of those who received head injuries not wearing a helmet.

- Display all ATV operators wearing helmets, goggles, long-sleeved shirts, gloves, long pants, and boots
- Include helmets in pictures of stationary ATVs

***Do not...publish photos of ATV operators without helmets.***

#### ***Do...promote age-appropriate ATV operation.***

Youth younger than 16 years have 2.5 times greater risk of injury on an ATV as compared to older operators. The ATV manufacturers and the American Academy of Pediatrics recommends ATV operation by children 12 to 15 years of age limited to ATVs with engine sizes between 70cc and 90cc and operation of ATVs greater than 90cc to youth 16 years of age and older.

- Show youth on age-appropriate ATVs
- Show adult supervision for youth-related ATV activities

***Do not...publish photos of youth on adult ATVs.***

(continued)

**Do...portray ATV operation in appropriate environments.**

The American Academy of Pediatrics recommends that ATVs not be used on unfamiliar terrain or on public roadways.

- Show ATV operators on ATV designated trails or environments
- Show ATV operators traveling at moderate speeds for the conditions
- Promote safe, alcohol-free ATV operation

*Do not...use three-wheeled ATVs in your stories or pictures.*

*Do not ... take aggressive action shots of ATV operation or show ATV operation on public roadways.*

**Do...display one operator per ATV.**

The Consumer Product Safety Commission, the American Academy of Pediatrics and the ATV manufacturers all recommend no passengers on ATVs.

- ATVs are designed for one rider with no passengers

*Do not...publish photos of passengers on ATVs.*

**Do...cover positive stories of youth and adults involved in ATV safety programs.**

The ATV Safety Institute sponsors and identifies ATV training opportunities throughout the United States. Contact the Institute for information on training programs in your area by calling 1-800-887-2887 or contact your local ATV enforcement agency or health care provider.

- Cover stories of youth or adults involved in safe ATV operation
- Recognize youth who complete ATV training courses
- Advocate for ATV safety training prior to ATV operation
- Publish ATV training opportunities

*Do not...glorify injured ATV operators or place youth in a risky situation for the sake of the story.*

**For more information:**

National Farm Medicine Center  
Marshfield Clinic

1000 North Oak Avenue

Marshfield, WI 54449

Ph: 1-888-924-SAFE (72 3)

Fax: 715-389-4996

Email: [schaefes@mfldclin.edu](mailto:schaefes@mfldclin.edu)

<http://www.marshmed.org/nfmc/children/>



CPSC/OFFICE OF  
THE SECRETARY

1998 OCT 21 P 1:51

October 21, 1998

Sadye Dunn,  
Secretary  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Room 502  
Washington, D.C. 20207

***ATV Action Plan***

Dear Ms. Dunn:

Pursuant to the Commission's request for comments on its proposed actions on ATVs in the Federal Register notice of September 9, 1998, Honda submits the enclosed letter from the National Children's Center for Rural and Agricultural Health and Safety. The National Center gave Honda permission to submit this letter to CPSC.

Sincerely yours,

Michael A. Brown

Enclosure



Consumer Federation of America



## ATV Action Plan

### **Comments of Public Citizen, Consumer Federation of America, and the United States Public Interest Research Group on the Consumer Product Safety Commission's Proposed Resolution on All-Terrain Vehicle Action Plans 63 Fed. Reg. 48199 (September 9, 1998)**

On behalf of Public Citizen, Consumer Federation of America, and the United States Public Interest Research Group (U.S. PIRG), we submit these comments on the Consumer Product Safety Commission's proposed Resolution responding to the industry's ATV action plans. We are concerned that the ATV Action Plan does not do enough to protect children from being killed and injured on these vehicles, and we urge the Commission to devote significant resources to monitoring companies' actions and to developing additional measures to reduce ATV-related deaths and injuries.

Despite the provisions of the consent decree, approximately 240 people die every year and an additional 54,000 are injured riding ATVs. ATVs are particularly dangerous for children, as the most recent Commission-sponsored studies confirm. Although only 14% of ATV drivers are children under the age of 16 years, 47% of the ATV-related injuries and 35% of the ATV-related deaths involve children under 16. The risk for children is about 2.5 times the risk for drivers aged 16 to 34, and about 4.5 times the risk for drivers aged 35 to 54. Thus, even though a major goal of the consent decree was to reduce deaths and injuries to children, more than 80 children die and 25,000 are injured every year riding ATVs.

The consent decree did not adequately reduce ATV-related risks. Yet, rather than implementing a tougher response to the mounting ATV deaths and injuries to children, the Commission proposes to commend the ATV industry for undertaking an ATV Action Plan that simply replicates the key provisions of the Consent Decree. The tragic toll of childhood deaths and injuries will continue until more is done to get these hazardous vehicles out of the hands of children.

Only two provisions of the ATV Action Plan have the potential of improving ATV safety beyond what the consent decree offered: the informational/educational effort and the increased incentive for training.

### Information & Education (I&E) Program

The I&E program will educate the public and, in particular, parents about the need to keep children off of ATVs. A well-designed program may reach those ATV users who purchased used ATVs from previous owners and therefore, may not have gotten all the safety warnings.<sup>1</sup> The Commission should require the ATV companies' to supply evaluation measures, and the agency should independently monitor the I&E programs on an on-going basis and develop follow-up surveys to determine the effectiveness of the I&E program at changing ATV rider behavior.

### Training and Incentives

While we support the ATV Action Plan's increased incentive for training because training decreases the risk that adults will be injured or killed riding ATVs, we are concerned that the incentive plan ignores the 40% of ATV purchasers who buy their vehicles outside of the dealerships. The Commission should continue to develop alternative ways to encourage training, particularly for those consumers who buy their ATVs from previous owners.

With respect to ATVs sold at dealerships, we recommend that the Commission make explicit in the letters of undertaking from each company that the free training and incentives apply whether the dealer sells a new or used ATV. We urge the Commission to carefully monitor the training statistics for each of the ATV companies, so that the Commission can determine whether the increased cash incentive succeeds in encouraging more training.

### Honda Plan

We are concerned that Honda's refusal to offer the increased cash incentive will result in fewer new ATV purchasers obtaining the necessary training. In addition, Honda's refusal to offer the safety alert, to monitor their dealers on a random basis, and to provide the Commission with advance notice of changes in its ATV program are of significant concern. The safety alert is the only communication to purchasers that includes data on ATV-related deaths and serves as a powerful message of the dangers associated with riding ATVs, particularly to children. Dealers are the people to whom ATV buyers are most likely to direct their ATV-related questions, and thus, dealer compliance with the age recommendations is critical if we want to ensure that ATV buyers prevent children from riding ATVs. Although volume of sales and prior non-compliance should be factors for apportioning CPSC monitoring efforts, we believe that Honda's failure to agree to the

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<sup>1</sup>The recent exposure survey revealed that 51% of ATVs were purchased as used vehicles, and that about 80% of the used vehicles were purchased from the previous owner rather than from an ATV dealer.

additional safety provisions will necessitate increased CPSC monitoring of Honda dealerships.

### Enforcement

Of course, the biggest difference between the ATV Consent Decree and the ATV Action Plan is the Plan's enforceability. The Commission should therefore devote significant resources to monitoring the ATV companies' actions. For example, dealers may believe that now that the consent decree has expired they are no longer required to comply with the age recommendations. We strongly support the Commission's plans to enhance its efforts to assure dealer compliance, and urge the Commission to devote sufficient resources to conduct the undercover dealership inspections proposed.

In addition, we urge the Commission to require the ATV companies to pay for the mailing of a letter from the Commission to every dealership in the country setting out the terms of these agreements and underscoring the manufacturers' promise to terminate dealerships for non-compliance and the Commission's ability to take further action should these measures prove unsuccessful.

### Expanded Action by the Commission

The Commission should not consider the ATV problem solved. The ATV Action Plans simply serve to continue the status quo negotiated with the industry in 1988. The Commission should continue to work to reduce ATV-related deaths and injuries, particularly to children. Although state laws may improve ATV safety, the Commission should not rely on state efforts to solve the problem.

The continued viability, use and danger of three-wheel ATVs, as identified in the exposure survey and risk analysis is of particular concern.<sup>2</sup> The Action Plan does not directly address these highly hazardous vehicles. We urge the Commission to require the ATV companies that produced these vehicles to provide incentives to consumers to take these three-wheel vehicles out of use. These incentives should not be tied to a future ATV purchase.

Our organizations have repeatedly urged the Commission over the years to take two strong steps to reduce ATV-related deaths and injuries to children: (1) ban the sale of ATVs for use by children, and (2) order a recall of ATVs sold for use by children. We believe these measures send a very powerful message to parents that children under 16 should not ride these vehicles. It is unclear whether the I&E program will succeed in

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<sup>2</sup>Despite the Commission's determination back in 1988 that three-wheel ATVs have a 7-year life span, ten years later, about 22% of the ATVs in use are the three-wheel models. The risk is 2.5 to 3 times higher on three-wheel ATVs than on four-wheel ATVs.

Finally, we strongly object to the Commission's proposal to "commend" the ATV companies for doing what they already should be doing to protect ATV riders and reduce the risk of injury and death to children. Dictionaries define commend as "to praise," yet it is illogical and unacceptable to praise these companies for plans that are unproven. Furthermore, it is important that the Commission reserve the commendation-type recognition for exemplary companies (whether in this product line or any other) who have initiated efforts that have been shown to enhance and improve product safety. Therefore, we recommend that the ATV action plans be given provisional acceptance rather than any type of commendation or praise.

  
Lucinda Sikes

Mary Ellen Fise

**Consumer Federation of America**

Ed Mierzwinski

**U.S. Public Interest Research Group**

**PUBLIC CITIZEN LITIGATION GROUP**

1600 20TH STREET, N.W.

WASHINGTON, D.C. 20009-1001

(202) 588-1000

October 26, 1998

By Facsimile and by Mail

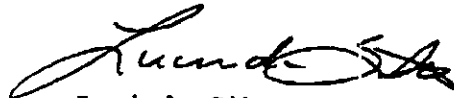
Office of the Secretary  
Consumer Product Safety Commission  
Washington, D.C. 20207

Re: ATV Action Plan

To Whom it May Concern:

Enclosed please find the comments of Public Citizen, Consumer Federation of America and the U.S. Public Interest Research Group on the ATV Action Plan published in the Federal Register on September 9, 1998. 63 Fed. Reg. 48199.

Sincerely,



Lucinda Sikes



**Public Citizen Litigation Group  
1600 20th Street, NW  
Washington, DC 20009  
(202) 588-1000**

**FAX NUMBER: (202) 588-7795**

**Date:** October 26, 1998  
**To:** Office of the Secretary  
**Fax #:** (301) 504-0127  
**From:** Lucinda A. Sikes

We are transmitting 6 pages, including this cover page.  
If there are problems with the transmission, please call  
us at (202) 588-1000.

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**Comments of Consumers Union**  
**'98 00 28 AS 38 on the**  
**United States Consumer Product Safety Commission's**  
**Proposed Resolution on**  
**All-Terrain Vehicle Action Plans**  
**(3 Fed. Reg. 48199 (September 9, 1998))**

Consumers Union (CU), publisher of *Consumer Reports* magazine, submits these comments on the Consumer Product Safety Commission's (CPSC's) proposed Resolution responding to the All-Terrain Vehicle industry's Action Plans. At the outset, CU acknowledges the difficulty of regulating a product where the very design of that product and the environment in which it is used makes it a safety hazard. We believe that in the case of All-Terrain Vehicles (ATVs), the Commission has, for the most part, done all that it can do within the limits of its authority and resources to decrease the incidence of death and injury.

CU supports the Commission's efforts to adopt a favorable Resolution in the belief that maintaining even the status quo is preferable to terminating altogether the current safety outreach programs of ATV manufacturers. These programs include manufacturers' continuing efforts to provide information and education to the public emphasizing ATV safety and continuing to offer incentives to all new ATV purchasers to attend training courses. CU has no reason to believe, however, that children under 16 will be any better protected from injury and death by these provisions in the future than they have been in the past, or are today. The Commission's recent survey, "*All-Terrain Vehicle Exposure, Injury, Death, and Risk Studies*," [hereinafter Exposure Survey] demonstrates the severity of the problem for children: while 14% of ATV drivers are children under 16, 47% of ATV injuries involve children under 16, and even more tragic, over 35% of the deaths from ATVs involve children under 16. In addition, according to the Exposure

Survey, the injury risk to children driving ATVs is 2.5 times the risk for drivers aged 16-34, and about 4.5 times the risk for drivers aged 35 to 54.

As Consumers Union said in April of this year upon the expiration of the 1988 Consent Decree regulating ATV manufacturers, we continue to believe that the limitations on the Commission's resources and authority require that the Congress step in. We believe that only Congress has the power to bring about bona fide changes in the regulation of ATVs, changes that will begin to reduce by significant numbers the deaths and injuries from these vehicles. CU believes that Congress should hold hearings on the continuing dangers, especially to children, posed by ATVs, and enact legislation that will provide financial incentives to the states to help keep children off All-Terrain Vehicles and promote safety measures for all other ATV drivers.

Such incentives should include requirements that all ATVs driven on public lands be registered by the state, that all ATV drivers be age 16 or over, and that all drivers take a state-certified training course through which they obtain a license to drive an ATV. In addition, federal legislation should provide incentives to states to require the wearing of helmets while riding ATVs. The Exposure Survey revealed that 32% of ATV riders never wear a helmet and another 23% only sometimes wear a helmet. The Survey also found that 22% of injuries from ATVs were to the head, most of those concussions or brain injuries, and that 65% of those suffering head injuries were not wearing helmets. Further, incentives should be provided to those jurisdictions that prohibit the carrying of passengers. The Exposure Survey revealed that 77% of ATV drivers at times carry passengers, despite manufacturer warnings against it for reasons of safety, and that 25% of the injuries from ATVs are to passengers.

Some states have some of these requirements. None have all of them.

Having acknowledged that the Commission has done much of what it can do within the limits of its authority and resources, and citing above what we believe to be the only real solution to the continuing hazards of ATVs to children, we turn our attention to the proposed CPSC Resolution on the Action Plan.

Action Plan Provisions

In many respects, we agree with the comments submitted jointly by three organizations, Public Citizen, Consumer Federation of America and United States Public Interest Research Group. In addition, Consumers Union does have some additional recommendations on this Resolution. All of these are highlighted below.

- The Action Plan does not address the need for training among those who buy used vehicles from individuals who are not dealers. We believe the Commission should urge manufacturers to track resale of products, which they could do with ease in those states with ATV registration requirements, and offer training for second-hand ATV buyers.
- Dealers selling used ATVs should be required to offer training to such buyers, not simply offer training only to purchasers of new ATVs.
- Honda Corporation's unwillingness to provide increased cash incentives for training will likely mean fewer ATV purchasers will receive such training and is of great concern. Honda's refusal to offer the safety alert, to monitor their dealers on a random basis, and to provide the Commission with advance notice of changes in its ATV program are also of great concern, and as a result, Honda dealerships will need a higher level of monitoring by Commission staff than those of the other manufacturers.

- CU urges the Commission to require manufacturers to inform every ATV dealership, in a letter approved by the Commission, of the pertinent provisions of this Action Plan, and note the manufacturer's promise to terminate dealerships that are found out-of-compliance with these provisions through random, unannounced checks of the dealership.
- The Commission's Exposure Survey notes that the most hazardous of ATVs--three-wheelers--have remained in circulation far longer than originally projected. In 1988, the Commission estimated the life of the three-wheel-ATV to be about seven years. The exposure survey estimates that about 22% of ATVs currently in use are three-wheel vehicles. The risk of injury on a three-wheel ATV is 2.5 to 3 times higher than on a four-wheel ATV. The Action Plan does not address the continuing safety hazards of these three-wheelers. If, as the dealers claim, they are serious about reducing injury and deaths from ATVs, as part of the Action Plan we believe they should devise a mechanism, whether through cash incentives, discounts on products or other means, to get these three-wheel vehicles out of circulation.
- CU finds the notion of commending those ATV manufacturers that have agreed to the provisions of the Action Plan illogical. An agency such as the CPSC, whose primary mandate is to promote safety, should reserve commendations for those companies that have taken especially courageous or innovative approaches to saving lives and preventing injury. For example, reserve such commendations for any company that recalls its three-wheel ATVs. We do not find any of the provisions of the manufacturers' Action Plans to be particularly courageous or innovative. Indeed, with over 54,000 injured and over 200 dead each year on ATVs, this is an industry

that could do far more to promote the safety of its customers and protect the lives of children.

October 26, 1998

Respectfully submitted

CONSUMERS UNION

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Vice President and Technical Director  
Consumers Union  
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